

it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 11th day of April, 2001.

Ivan Strasfeld,

*Director of Exemption Determinations,
Pension and Welfare Benefits Administration,
Department of Labor.*

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DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D-10876, et al.]

Proposed Exemptions; Retirement Plan of Plumbers and Steamfitters Local No. 489 of Cumberland, Maryland (the Plan) et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state: (1) The name, address, and telephone number of the person making the

comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and requests for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N-5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. __, stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N-5638, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons: Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Retirement Plan of Plumbers and Steamfitters Local No. 489 of Cumberland, Maryland (the Plan) Located in Cumberland, Maryland

[Application No. D-10876]

Proposed Exemption

The Department of Labor is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale (the Sale) of certain real property (the Property) to the Plan by the Plumbers and Steamfitters Local No. 489 (the Union), a party in interest with respect to the Plan, provided the following conditions are satisfied:

(a) The terms and conditions of the transaction are no less favorable to the Plan than those which the Plan would receive in an arm's-length transaction with an unrelated party;

(b) The Sale is a one-time transaction for cash;

(c) The Plan incurs no expenses from the Sale;

(d) The Plan pays the lesser of \$100 or the fair market value of the Property; and

(e) An independent fiduciary will approve and enforce the terms of the proposed transaction, if granted.

Summary of Facts and Representations

1. The Plan is a multiemployer defined benefit pension plan. As of January 21, 2000, the estimated number of participants and beneficiaries affected by the proposed transaction is 199 and the approximate aggregate fair market value of the Plan's total assets is in excess of \$14,000,000. The Plan is a Taft-Hartley trust fund established pursuant section 302(c)(5) of the Labor Management Relations Act which is intended to qualify under section 401(a) of the Code. The Plan is administered by a four member board of trustees (the Trustees) of whom two members are selected by the Union. The Plan is for employees covered by collective bargaining agreements between the participating employers and the Union, and for certain employees of the Plan and the Union.

2. The Property is located at 2 Park Street, Cumberland, Maryland. The Property contains an area of 15,751

square feet. The subject Property is improved by a one story concrete block and part brick veneer commercial building measuring 126 feet in width by 50.5 feet deep containing 6,363 square feet.

3. The Property was appraised by Dennis E. Perrin (the Appraiser), a state of Maryland Certified General Appraiser, employed by Perrin and Perrin, located in Cumberland, Maryland, who determined that the Property had a fair market value of \$259,000, as of December 17, 1998. The Appraiser utilized in his valuation the highest and best use methodology for the Property.

4. The Union proposes to sell the Property to the Plan for cash in a one-time transaction with no expenses incurred by the Plan. The agreement between the Plan and the Union permits the Plan for a period of 365 days from the date of the purchase to nullify the Sale. The applicant represents that the Union will receive \$100 as consideration for the Sale.¹

5. The applicant also represents that compliance with the terms and conditions of the requested exemption will be monitored and enforced by an independent fiduciary, Glenn J. Robinette (Mr. Robinette) of the Law Office of Glenn J. Robinette, located in Cumberland, Maryland. Mr. Robinette represents that he has extensive experience in the field of real estate and estate planning matters. Mr. Robinette represents that the proposed Sale is in the best interests of the Plan and is protective of the rights of the participants and beneficiaries of the Plan. Mr. Robinette represents that (i) the Sale will provide the Plan with an opportunity to acquire a valuable asset which will appreciate in value; (ii) the Sale will serve to further diversify the

portfolio, since the Plan holds no realty at this time; (iii) the Sale will comply with the Plan's growth objectives; (iv) the purchase price of \$100 is extremely low; and (v) the 365 days provided to the Plan to nullify the Sale is beneficial and necessary for the proposed transaction.

6. The applicant represents that the Plan is prompted to take this action for the following reasons (i) the purchase of the Property would benefit the Plan in that it is a prudent investment of Plan assets and has potential for appreciation; (ii) the Plan will purchase the Property with a value greater than the purchase price; (iii) the value of the Plan assets will increase substantially upon the purchase of the Property;

(iv) the purchase would provide diversification since the assets in the Plan are primarily invested in financial instruments and not real estate; and (v) the Plan maintaining the Property would provide a greater assurance that the Union will continue to exist and negotiate with participating employers so that contributions continue to be made to the Plan. The proposed transaction will be monitored and enforced by a qualified, independent fiduciary.

7. In summary, the applicant represents that the proposed transaction satisfies the criteria of section 408(a) of the Act because (a) the Sale is a one-time transaction for cash; (b) the Plan will not incur any expenses from the transaction; (c) the Plan pays the lesser of \$100 or the fair market value of the Property; and (d) the independent fiduciary will approve and enforce the terms of the proposed transaction.

Notice to Interested Persons: Notice of the proposed exemption shall be given to all interested persons in the manner agreed upon by the applicant and Department within 15 days of the date of publication in the **Federal Register**. Comments and requests for a hearing are due forty-five (45) days after publication of the notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Khalif I. Ford of the Department, telephone (202) 219-8883 (this is not a toll-free number).

THS Profit Sharing Plan (the Plan) Located in Bedford Hills, New York

[Application No. D-10921]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, August 10, 1990). If the exemption is granted,

the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed sale (the Sale) by the Plan of two life insurance policies (the Policies) which insure Tim H. Shoecraft, the sole participant (the Participant),² to the Shoecraft Family Trust Dated October 9, 1991 (the Trust), which is a disqualified party with respect to the Plan under section 4975(e)(2) of the Code, provided that the following conditions are met:

(a) The Participant is the insured under the contract;

(b) Prior to the Sale, the Plan will afford the insured notice of the Sale and the opportunity to purchase the Policies;

(c) The Sale will be for full and adequate consideration, based upon the cash surrender value of the Policies at the time of the transaction;

(d) The Plan is authorized to purchase and own life insurance;

(e) The amount received by the Plan as consideration for the Sale is at least equal to the amount necessary to put the Plan in the same cash position as it would have been in had it retained the contract, surrendered it, and made any distribution owing to the Participant of his vested interest under the Plan; and

(f) The Plan is not required to pay any commissions, costs or other expenses in connection with the Sale.

Summary of Facts and Representations

1. The Plan is a profit sharing plan which was created effective December 1, 1991. As of July 11, 2000, the Plan had net assets valued at approximately \$60,000 and one participant, Mr. Shoecraft. The trustees of the Plan have full investment discretion and are comprised of the Participant and his wife, Marianne Shoecraft.

The Participant is the sole shareholder of Shoecraft and Associates, a financial advisory company located in the State of New York. The Participant is also the settlor of the Trust. The Trust is a grantor trust, which is defined as a trust that is taxed at the settlor's tax rate because the settlor has the power to control the beneficial enjoyment of the trust, retains a reversionary interest in the trust, has administrative powers over the trust, has the power to revoke the trust, or benefits from the income of

² Because Tim H. Shoecraft is the sole shareholder of Shoecraft and Associates and he is the only participant in the Plan, there is no jurisdiction under Title I of the Employee Retirement Income Security Act of 1974 (the Act) pursuant to 29 CFR 2510.3-3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

¹ The applicant represents that it is contemplated that the Plan will lease a portion of the Property to the Union; and the Union will be responsible for all utilities and will perform all necessary maintenance and/or remodeling for the building, but that the Plan would pay real estate taxes. Additionally, the applicant represents that the transaction will satisfy the conditions of PTE 76-1 and PTE 77-10 (41 FR 12740, March 26, 1976 and 42 FR 33918, July 1, 1977 respectively). The Department expresses no opinion as to whether or not the lease of a portion of the Property by the Plan to the Union as described herein satisfies the terms and conditions of PTE 76-1 and PTE 77-10. Furthermore, the Department is providing no relief for such lease transaction. Lastly, the Department notes that, although the Sale of the Property is the subject of a proposed exemption, the fiduciary of the Plan must still adhere to the fiduciary responsibility provisions of section 404 of the Act. Thus, although the proposed purchase price is just \$100, the fiduciary of the Plan has a duty under section 404 to ensure that the purchase of the Property is prudent, taking into account the costs and benefits associated with ownership of such Property.

the trust. The beneficiaries of the Trust are family members of the Participant.

2. The Plan, the owner of the Policies, purchased the Policies from the Participant for their cash surrender values on December 1, 1992.³ The Participant is the insured under the Policies. The Policies were issued by the Massachusetts Mutual Life Insurance Company. The cash surrender values of the Policies are \$2,748 (Policy Number 71042940 valued at \$1,375 + Policy Number 71042900 valued at \$1,373 = \$2,748). The cash surrender values of the Policies represent 4.58% of the fair market value of the assets of the Plan.

3. The Participant no longer desires to maintain the Plan. He has not made contributions in several years and wishes to eliminate the reporting and administrative requirements. Upon termination of the Plan, the Plan must discontinue, liquidate or sell the Policies. The Participant, because he is uninsurable, wishes to maintain the Policies after the termination of the Plan. From an economic perspective, the Participant represents that the Trust is the ideal entity to purchase the Policies. Additionally, the Participant represents that the Trust allows for an allocation of the proceeds between the beneficiaries of the Policies on a needs basis. Accordingly, the Participant requests an administrative exemption from the Department in order to permit the sale of the Policies to the Trust.

4. The Sale will be for adequate consideration, i.e., the greater of \$2,748 or the cash surrender value of the Policies at the time of the transaction. Prior to the Sale, the Plan will afford the Participant notice of the Sale and the opportunity to purchase the Policies. If the Participant decides not to purchase the Policies and authorizes the Sale to the Trust, only then will the proposed Sale occur.

5. The Participant represents that the proposed transaction would be administratively feasible because it would be a one-time transaction for cash. Furthermore, the Participant states that the proposed transaction would be in the best interest of the Participant and the Plan because the Plan would incur no commissions, costs, or other expenses as a result of the Sale.

6. In summary, the Participant represents that the proposed transaction satisfies the statutory criteria for an administrative exemption under section 4975(c)(2) of the Code because:

(a) The Participant is the insured under the contract;

(b) Prior to the Sale, the Plan will afford the Participant notice of the Sale and the opportunity to purchase the Policies;

(c) The Sale will be for full and adequate consideration, based upon the cash surrender value of the Policies at the time of the transaction;

(d) The Plan is authorized to purchase and own life insurance;

(e) The amount received by the Plan as consideration for the Sale will be at least equal to the amount necessary to put the Plan in the same cash position as it would have been in had it retained the contract, surrendered it, and made any distribution owing to the Participant of his vested interest under the Plan; and

(f) The Plan will not be required to pay any commissions, costs or other expenses in connection with the Sale.

Notice to Interested Persons

Because Mr. Shoecraft is the only participant in the Plan who will be affected by the proposed transaction, it has been determined that there is no need to distribute the notice of proposed exemption (the Notice) to interested persons. Comments and requests for a hearing are due thirty (30) days after publication of the Notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Khalif Ford of the Department, telephone (202) 219-8883. (This is not a toll-free number.)

Phoenix Home Life Mutual Insurance Company (Phoenix) Located in Hartford, CT

[Application No. D-10943]

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990).⁴

Section I. Covered Transactions

If the exemption is granted, the restrictions of section 406(a) of the Act and the sanctions resulting from the

application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to (1) the receipt of common stock (Stock) of The Phoenix Companies, Inc. (the Holding Company), the parent of Phoenix, or (2) the receipt of cash (Cash) or Policy Credits, by or on behalf of any Eligible Policyholder of Phoenix which is an employee benefit plan (a Plan), including any Eligible Policyholder that is a Plan maintained by Phoenix or its affiliates (Phoenix Plan), in exchange for such Eligible Policyholder's membership interest in Phoenix, in accordance with the terms of a plan of reorganization (the Plan of Reorganization) adopted by Phoenix and implemented pursuant to section 7312 of the New York Insurance Law.

In addition, if the exemption is granted, the restrictions of section 406(a)(1)(E) and (a)(2) and section 407(a)(2) of the Act shall not apply to the receipt and holding of the Stock, by a Phoenix Plan, whose fair market value exceeds 10 percent of the value of the total assets held by such Plan.

The proposed exemption is subject to the following conditions set forth below in Section II.

Section II. General Conditions

(a) The Plan of Reorganization is subject to approval, review and supervision by the Superintendent of Insurance of the State of New York (the Superintendent) and is implemented in accordance with procedural and substantive safeguards that are imposed under New York law.

(b) The Superintendent reviews the terms and options that are provided to Eligible Policyholders of Phoenix as part of such Superintendent's review of the Plan of Reorganization and the Superintendent only approves the Plan of Reorganization following a determination that the Plan of Reorganization is fair and equitable to Eligible Policyholders and is not detrimental to the general public.

(c) Each Eligible Policyholder has an opportunity to vote to approve the Plan of Reorganization after full written disclosure is given to the Eligible Policyholder by Phoenix.

(d) Any determination to receive Stock, Cash or Policy Credits by an Eligible Policyholder which is a Plan, pursuant to the Plan of Reorganization, is made by one or more Plan fiduciaries which are independent of Phoenix and its affiliates and neither Phoenix nor any of its affiliates exercises any discretion or provides investment advice, within the meaning of 29 CFR 2510.3-21(c), with respect to such decisions.

³ In this regard the Department notes that Prohibited Transaction Class Exemption 92-5 (PTCE 92-5) (57 FR 5019, February 11, 1992) provides conditional exemptive relief for the sale, transfer, or exchange of an individual life insurance or annuity contract to an employee benefit plan from a plan participant on whose life the contract was issued, or from an employer, any of whose employees are covered by the plan. The Department is expressing no opinion as to whether the original acquisition of the Policies by the Plan satisfied the requirements of PTE 92-5.

⁴ For purposes of this proposed exemption, reference to provisions of Title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

(e) In the case of the Phoenix Plans, an independent fiduciary with respect to the Phoenix Plans:

(1) Exercises its authority and responsibility to vote on behalf of the Phoenix Plans at the special meeting of Eligible Policyholders on the proposal to approve the Plan of Reorganization;

(2) Monitors, on behalf of the Phoenix Plans, the acquisition and holding of any Stock, Cash or Policy Credits received;

(3) Makes determinations on behalf of the Phoenix Plans with respect to the voting and continued holding of any Stock held by such Plans until such holding is reduced so that it does not exceed the limits of section 407(a) of the Act;

(4) Disposes of Stock exceeding the limits of section 407(a) of the Act within six months of the effective date of the Plan of Reorganization.

(5) Provides the Department with a complete and detailed final report as it relates to the Phoenix Plans prior to the effective date of the demutualization.

(f) After each Eligible Policyholder entitled to receive Stock is allocated a fixed number 37 shares of Stock (subject to possible adjustment as provided in the Plan of Reorganization), additional consideration is allocated to each Eligible Policyholder who owned participating policies based on actuarial formulas that take into account each participating policy's contribution to the surplus of Phoenix, which formula has been approved by the Superintendent.

(g) All Eligible Policyholders that are Plans participate in the transactions on the same basis as all Eligible Policyholders that are not Plans.

(h) No Eligible Policyholder pays any brokerage commissions or fees in connection with the receipt of Stock or in connection with the implementation of the commission-free purchase and sale program.

(i) All of Phoenix's policyowner obligations remain in force and are not affected by the Plan of Reorganization.

(j) The terms of the transaction are at least as favorable to the Plans as an arm's-length transaction with an unrelated party.

Section III. Definitions

For purposes of this proposed exemption:

(a) An "affiliate" of Phoenix includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with Phoenix. (For purposes of this paragraph, the term "control" means the power to exercise a controlling influence over the

management or policies of a person other than an individual), and

(2) Any officer, director or partner in such person.

(b) The term "Eligible Policyholder" means a person who is (or collectively, persons who are) the owner(s) of one or more policies that are in force on the date of the adoption of the Plan of Reorganization.

(c) The term "Phoenix" means Phoenix Home Life Mutual Insurance Company and any of its affiliates, as defined in paragraph (a) of this Section III.

(d) The term "Policy Credit" means (a) for an individual or joint participating whole life insurance policy, the crediting of paid-up additions which will increase the cash value and death benefit of the policy; (b) for supplementary contracts issued under optional modes of settlement or annuities in the course of installment payment without a defined account value and that provide for the payment of additional interest, the crediting of an additional amount in the form of additional interest; (c) for supplementary contracts issued under optional modes of settlement or annuities in the course of installment payment without a defined account value not providing for the payment of additional interest, an increase in the installment payment amount; and (d) for all other individual or joint life policies and annuities, (i) if the policy or contract has a defined account value, an increase in the account value, to which the Company will apply no sales, surrender or similar charges, or that will be further increased in value to offset any of these charges, or (ii) if the policy or contract does not have a defined account value, the crediting of dividends under the policy or contract.

Summary of Facts and Representations

1. Phoenix is a mutual life insurance company organized under the laws of the State of New York and subject to supervision and examination by the Superintendent. Phoenix is principally engaged in providing life insurance and annuities to individuals. It is authorized to transact life and health insurance in 50 states and the District of Columbia. As of December 31, 1999, Phoenix had total assets of approximately \$19.6 billion (on a statutory accounting basis) and had more than \$261 billion of life insurance in force.

As a mutual life insurance company, Phoenix has no stockholders. Policyholders of a mutual life insurance company are "members" of the company, and, in that capacity, they are entitled to vote to elect directors of the

company and would be entitled to share in the assets of the company if it were liquidated.

Phoenix is the sole shareholder of PM Holdings, Inc. (Holdings), a holding company which is the sole or majority owner of a number of subsidiaries including life insurance companies, investment management companies, insurance brokers, broker-dealers, international business operations and trust companies. Holdings's most significant insurance company subsidiary is PHL Variable Insurance Company, a wholly-owned company which is primarily engaged in the sale and underwriting of variable annuity business. In addition, Holdings is the sole shareholder of W.S. Griffith & Co. Inc., a broker-dealer engaged in the sale and distribution of investment products of Phoenix and its subsidiaries. Holdings is also the sole shareholder of Phoenix Charter Oak Trust Company, which provides a full range of personal and institutional fiduciary services and life insurance trust services to Phoenix policyholders.

Holdings has an approximate 60% ownership interest in publicly traded Phoenix Investment Partners, Ltd. (PXP). PXP and its subsidiaries provide a variety of investment management and related services to a broad base of institutional, corporate and individual clients. PXP's businesses include investment advisory (for mutual funds and institutional clients), broker-dealer and investment research operations, as well as financial consulting services. Holdings is a direct or indirect owner of numerous other foreign and domestic corporations and enterprises, none of which has substantial involvement with U.S. employee pension or welfare plans.

2. As of April 1, 2000, Phoenix sold its group insurance business and therefore no longer sells or administers products in the employer-sponsored welfare plan market (e.g., group medical, dental, life and disability insurance and administrative services only contracts). Phoenix continues, however, to reflect on its records several thousand group insurance contracts which have been reinsured on a 100% indemnity basis with an unrelated insurer which is performing most of the services for such contracts. It is anticipated that such business will soon be entirely written on the reinsurer's paper.

While Phoenix remains active in the tax-sheltered annuity and individual retirement account market, it engages in few insurance product sales in the corporate qualified market. It maintains a group annuity product for a limited number of small 401(k) and profit

sharing plans; it also has a limited marketing effort for the sale of individual life insurance and annuity products in the corporate qualified market. The majority of the group and individual annuities issued by Phoenix to corporate qualified Plans and remaining on its books represent inactive cases.

Largely as a result of Phoenix' past activity in the employee benefit plans market, Phoenix had remaining, as of December 31, 1999, approximately 22,000 in force policies and contracts held on behalf of employee pension and welfare benefit plans. These included approximately 15,000 policies and contracts funding pension and profit sharing (including § 401(k)) plans and approximately 7,000 contracts providing welfare benefit plan coverage such as group life, short- and long-term disability, accidental death and dismemberment and group health coverage. In addition, Phoenix has approximately 24,000 annuity contracts funding 403(b) plans and individual retirement accounts. Phoenix no longer sells or administers group insurance policies or plans.

Phoenix and PXP sponsor the following Plans, which are expected to be Eligible Policyholders (collectively referred to herein as the "Phoenix Plans"):

(a) The Phoenix Home Life Mutual Insurance Company Employee Pension Plan (the Pension Plan) is a defined benefit pension plan. As of December 31, 1999, the Pension Plan had approximately 6,160 participants.

(b) The Phoenix Home Life Mutual Insurance Company Savings and Investment Plan (the Savings Plan) is a defined contribution plan. As of December 31, 1999, the Savings Plan had 3,002 participants.

(c) The Phoenix Home Life Mutual Insurance Company Agent Pension Plan (the Agent Pension Plan) is a defined contribution plan. As of December 31, 1999, the Agent Pension Plan had 1,024 participants.

(d) The Phoenix Home Life Mutual Insurance Company Agent Savings and Investment Plan (the Agent Savings Plan) is a defined contribution plan. As of December 31, 1999, the Agent Savings Plan had 535 participants.

(e) The Phoenix Home Life Mutual Insurance Company Employee Group Life Insurance Plan (the Group Life Plan) is a welfare benefit plan. As of December 31, 1999, the Group Life Plan had 2,889 participants.

(f) The Phoenix Home Life Mutual Insurance Company Agent Group Life Insurance Plan (the Agent Group Life Plan) is a welfare benefit plan. As of

December 31, 1999, the Agent Group Life Plan had 773 participants.

(g) The Phoenix Investment Partners, Ltd. Group Profit Sharing Plan and Trust (the PXP Profit Sharing Plan) is a defined contribution plan. As of December 31, 1999, the PXP Profit Sharing Plan had 193 participants.

(h) The Phoenix Investment Partners, Ltd. Group Life Insurance Plan (the PXP Group Life Plan) is a welfare benefit plan. As of December 31, 1999, the PXP Group Life Plan had 493 participants.

(i) The Phoenix Investment Partners, Ltd. Group Long Term Disability Plan (the PXP Long Term Disability Plan) is a welfare benefit plan. As of December 31, 1999, the PXP Long Term Disability Plan had 359 participants.

3. On April 20, 2000, Phoenix's Board of Directors (the Board) authorized management to develop the Plan of Reorganization pursuant to which Phoenix would be converted from a mutual life insurance company to a stock life insurance company. Phoenix's Board of Directors adopted the Plan of Reorganization on December 18, 2000.

Under the Plan of Reorganization, Phoenix will convert from a mutual life insurance company to a stock life insurance company by operation of New York law. The ultimate result of the transaction will be a structure in which all of Phoenix's stock will be held by the Holding Company, which has been organized under Delaware law for this purpose. Eligible Policyholders of Phoenix will receive Holding Company Stock or, in certain cases, Cash or Policy Credits, and the membership interests and rights to surplus of Phoenix policyholders will be extinguished.⁵

⁵ The proceeds of the demutualization will belong to a Plan if they would be deemed to be owned by the Plan under ordinary notions of property rights. See ERISA Advisory Opinion 92-02A, January 17, 1992 (assets of plan generally are to be identified on the basis of ordinary notions of property rights under non-ERISA law). It is the view of the Department that, in the case of an employee welfare benefit plan with respect to which participants pay a portion of the premiums, the appropriate plan fiduciary must treat as plan assets the portion of the demutualization proceeds attributable to participant contributions. In determining what portion of the proceeds are attributable to participant contributions, the plan fiduciary should give appropriate consideration to those facts and circumstances that the fiduciary knows or should know are relevant to the determination, including the documents and instruments governing the Plan and the proportion of total participant contributions to the total premiums paid over an appropriate time period. In the case of an employee pension benefit plan, or where any type of Plan or trust is the policyholder, or where the policy is paid for out of trust assets, it is the view of the Department that all of the proceeds received by the policyholder in connection with a demutualization would constitute plan assets. If the demutualization proceeds belong to a Plan, the appropriate plan fiduciaries must take all necessary steps to safeguard such assets in order to avoid engaging in

An initial public offering (IPO), in which shares of Stock will be sold for cash, is to occur on the effective date of the reorganization. The Holding Company will contribute a portion of the proceeds from the IPO to Phoenix in an amount at least equal to the amount required to pay Cash and fund the crediting of Policy Credits to Eligible Policyholders who are to receive such consideration. As promptly as possible (but no later than 60 days) after the effective date of the reorganization, the Holding Company will pay, or cause Phoenix to pay, Cash or Policy Credits to Eligible Policyholders entitled under the Plan of Reorganization to receive such consideration.

The Holding Company will be a publicly-traded company, and an application will be made to list its stock on the New York Stock Exchange.

4. The main purpose of the reorganization is to demutualize Phoenix so that, as a stock insurance company subsidiary of the Holding Company, it can increase its potential for long-term growth and financial strength. A public structure would best enable Phoenix to accelerate its wealth management strategy and to grow its existing business and develop new business opportunities in the insurance and financial services industries. The Board believes that, by becoming a stock company, Phoenix will be able to raise money more efficiently and have greater flexibility to acquire other companies using the Holding Company Stock as acquisition currency. This would enable Phoenix to increase its market leadership, financial strength and strategic position, providing additional security to its policyholders.

Additionally, access to capital markets will enable Phoenix to invest in new technology, improved customer service, new products and channels of distribution. The Board also believes that the reorganization will enable Phoenix to enhance its position as a premier provider of wealth management products and solutions, distributed through a wide variety of financial advisors and financial institutions, and to serve the wealth accumulation, preservation and transfer needs of the high net worth and affluent markets. Phoenix will also obtain more financial flexibility with which to maintain its ratings and financial stability and be able to better attract, retain and provide incentives to management in a fashion consistent with other stock life insurance companies. As a mutual life insurer, Phoenix can increase its capital

a violation of the fiduciary responsibility provisions of the Act.

only through retained surplus contributed by its businesses or through the sale of surplus notes or similar instruments issued by it. Neither source is fully adequate to generate substantial surplus accumulations or to provide permanent capital to Phoenix.

The reorganization will make it easier for Phoenix to benefit from changes in laws relating to affiliations between insurance companies and other types of companies, such as banks. These changes include the Gramm-Leach-Bliley Act of 1999, which permits mergers that combine commercial banks, insurers and securities firms under one holding company. Until the passage of the Gramm-Leach-Bliley Act, legislation had limited the ability of banks to engage in securities-related businesses and had restricted banks from being affiliated with insurance companies. In addition, Phoenix, as a stock insurer that is a subsidiary of the Holding Company, will have access through the Holding Company to the capital markets, enabling Phoenix to obtain capital from a variety of sources.

5. Phoenix will compensate the Eligible Policyholders for their respective policyholders' membership interests, which will be extinguished as part of the reorganization, by giving them shares of Stock, Cash or Policy Credits. The economic value of this compensation is not available to the Eligible Policyholders so long as Phoenix continues its operations as a mutual company. However, the reorganization will not in any way reduce the benefits, values, guarantees or dividend eligibility of existing policies or contracts issued by Phoenix. All of Phoenix's policyowner obligations remain in force and will not be affected by the Plan of Reorganization.

6. Section 7312 of the New York Insurance Law (Section 7312) establishes an approval process for the reorganization of a life insurance company organized under New York law. The Plan of Reorganization must be approved both by the Superintendent and by the Eligible Policyholders.

Under Section 7312, the conversion of a mutual life insurance company to a stock company is initiated by the board of directors of the mutual company. The Plan of Reorganization may be approved only by a vote of at least 75% of the entire board of directors. The approval must include a finding that the Plan of Reorganization is fair and equitable to Eligible Policyholders.

After approval by the mutual insurance company's board of directors, the Plan of Reorganization is then required to be submitted to the

Superintendent for his or her review. In order for the Plan of Reorganization to become effective, the Superintendent must determine that the Plan of Reorganization does not violate the requirements imposed by Section 7312.

In order to aid the Superintendent in discharging his or her duties, Section 7312 permits the Superintendent to appoint an independent actuary to review actuarial aspects of the Plan of Reorganization. In addition, Section 7312 permits the Superintendent to appoint other qualified disinterested persons or institutions to act as consultants to the Superintendent. In the case of the Phoenix reorganization, the Superintendent retained The Blackstone Group to provide financial advice, Clifford Chance Rogers & Wells LLP to provide legal advice and Arthur Andersen LLP to provide actuarial and auditory advice.

Section 7312 also requires the Superintendent to hold a public hearing on a Plan of Reorganization which policyholders and other interested persons may express views on the Plan of Reorganization. Notice of the public hearing must be provided to each policyholder of the insurance company whose policy or contract is in force of the date of adoption of the Plan of Reorganization, and must be published in three newspapers of general circulation. The purpose of the public hearing is to allow interested persons to comment on the fairness of the terms and conditions of the Plan of Reorganization and the reasons and purposes for the reorganization of the insurer, and to consider whether the reorganization is in the interest of the insurer and its policyholders and is not detrimental to the public.

After the public hearing, the Superintendent must determine whether or not to approve the Plan of Reorganization. Under Section 7312, the Superintendent approves the Plan of Reorganization if he or she finds that it does not violate the insurance law, that it is fair and equitable to policyholders, that it is not detrimental to the public, and that, after giving effect to the reorganization, the insurer will have an amount of capital and surplus that the Superintendent deems to be reasonably necessary for the company's future solvency.

The Superintendent must also determine that the Plan of Reorganization does not fail to meet the following requirements of Section 7312(c):

(a) the Plan of Reorganization demonstrates a purpose and specific reasons for the proposed reorganization;

(b) the Plan of Reorganization is in the best interest of the mutual life insurer and its policyholders;

(c) the Plan of Reorganization is fair and equitable to the policyholders;

(d) the Plan of Reorganization provides for the enhancement of the operations of the reorganized insurer; and

(e) the Plan of Reorganization will not substantially lessen competition in any line of insurance business.

The Eligible Policyholders of the mutual insurance company must also be provided with notice of the Plan of Reorganization and an opportunity to vote whether to approve the Plan of Reorganization. Each policyholder is entitled to one vote, and the Plan of Reorganization must be approved by a vote of at least two-thirds of all votes cast by policyholders entitled to vote.

A decision by the Superintendent to approve a Plan of Reorganization pursuant to Section 7312 of the New York Insurance Law is subject to judicial review in the New York courts.

7. Phoenix's Plan of Reorganization provides for Eligible Policyholders, whose membership interests in the mutual company will be extinguished in the reorganization, to receive Stock, Cash or Policy Credits. For this purpose, an Eligible Policyholder generally is the owner of one or more policies that are in force on the date of the adoption of the Plan of Reorganization. In order to determine the amount of consideration to which each Eligible Policyholder is entitled, each Eligible Policyholder will be allocated (but, for those policyholders who do not receive Stock, not issued) a number of shares of Stock equal to the sum of (i) a fixed number of 37 shares of Stock (subject, with the approval of the Superintendent, to proportional adjustment in respect of the initial public offering) and (ii) where the Eligible Policyholder owns one or more participating policies, an additional number of shares based on actuarial formulas that take into account each participating policy's past and expected future contributions to the surplus of Phoenix.

Certain Eligible Policyholders will receive Cash or Policy Credits instead of Stock. The amount of Cash or Policy Credits shall be determined by reference to the price per share at which the Stock is offered to the public in the initial public offering and the number of shares allocated to such Eligible Policyholders.

Certain Eligible Policyholders, namely owners of individual retirement annuities, tax sheltered annuities, or certain other policies issued directly to participants in qualified pension or profit-sharing plans, will receive Policy

Credits equal in value to the Stock allocated to such Eligible Policyholders.

Certain other Eligible Policyholders will receive Cash instead of Stock. These Eligible Policyholders include:

(a) Eligible Policyholders who are not required to receive Policy Credits in accordance with the preceding paragraph and (i) whose address for mailing purposes is shown on Phoenix's records to be located outside the United States of America or with respect to whom Phoenix, after a reasonable effort to locate such Eligible Policyholder, has a reasonable belief that the most recent address for mailing purposes as shown on Phoenix's records is an address at which mail to such Eligible Policyholder is undeliverable or (ii) with respect to whom Phoenix determines in good faith to the satisfaction of the Superintendent that it is not reasonably feasible or appropriate to provide consideration in the form of Stock; and

(b) Eligible Policyholders who are allocated 60 or fewer shares of Stock and who have affirmatively indicated, on a form provided to such Eligible Policyholder that has been properly completed and received by Phoenix prior to a date set by Phoenix and approved by the Superintendent, a preference to receive Cash in lieu of Stock.

All Eligible Policyholders that are Plans will participate on the same basis as Eligible Policyholders that are not Plans. The terms of the transaction will be at least as favorable to the Plans as an arm's-length transaction with unrelated parties.

The Plan of Reorganization also provides that the Holding Company will establish a commission-free purchase and sale program which will begin no sooner than the first business day after the six-month anniversary of the effective date of the reorganization and no later than the first business day after the twelve-month anniversary of the effective date of the reorganization and will continue in either case for 90 days (and may be extended if the Board determines such extension to be appropriate and in the best interest of the Holding Company and its stockholders). Pursuant to such purchase and sale program, each Eligible Policyholder or other stockholder who holds 99 or fewer shares of Stock will have the opportunity to sell at prevailing market prices all, but not less than all, the shares of Stock owned by such stockholder, without paying brokerage commissions, mailing charges, registration fees or other administrative or similar expenses. The Holding

Company will concurrently offer each stockholder entitled to participate in the purchase and sale program the opportunity to purchase that number of shares of Stock necessary in order to increase such stockholder's holdings to a 100-share round lot, without paying brokerage commissions, mailing charges, registration fees or other administrative or similar expenses. The purchase and sale arrangements described in the Plan of Reorganization will be subject to such limitations as are agreed upon between the Holding Company and the SEC.

8. Several Phoenix Plans are expected to be Eligible Policyholders entitled to receive consideration in connection with the implementation of the Plan of Reorganization. Phoenix has retained U.S. Trust Co., N.A. to serve as independent fiduciary for these Plans in connection with the implementation of the Plan of Reorganization. U.S. Trust will determine whether the Plan of Reorganization is in the best interest of such Plans and their participants and beneficiaries, and it will vote at the special meeting of Eligible Policyholders on the proposal to approve or not to approve the Plan of Reorganization. If the vote is to approve the Plan of Reorganization, U.S. Trust will make, on behalf of each affected Phoenix Plan, any decisions available under the Plan of Reorganization regarding the receipt of consideration in the form of Stock, Cash or Policy Credits. Additionally, U.S. Trust will monitor, on behalf of the affected Phoenix Plans, the acquisition and holding of any consideration received, make determinations on behalf of the Phoenix Plan with respect to voting and the continued holding of the Stock received by such Plan, dispose of any Stock held by the Phoenix Plan which exceeds the limitation of section 407(a)(2) of the Act as reasonably as practicable but in no event later than six months following the effective date of the demutualization, and take all actions that are necessary and appropriate to safeguard the interests of the Phoenix Plans. Further, U.S. Trust will provide the Department with a complete and detailed final report as it relates to the Phoenix Plans prior to the effective date of the demutualization. Finally, U.S. Trust states that it has conducted a preliminary review of Phoenix's Plan of Reorganization and it sees nothing in the Plan that would preclude the Department of Labor from proposing the requested exemption.

9. In summary, it is represented that the proposed transactions will satisfy the statutory criteria for an exemption under section 408(a) of the Act because:

(a) The requested exemption will be administratively feasible because the Plan of Reorganization will be implemented pursuant to stringent procedural and substantive safeguards imposed under New York law and supervised by the Superintendent. Furthermore, each Eligible Policyholder will have an opportunity to determine whether to vote to approve the terms of the Plan of Reorganization and will also be solely responsible for any decisions that may be permitted under the Plan of Reorganization regarding the form of consideration to be received in the reorganization. Because of the extensive protections afforded to Plans under New York law, no ongoing involvement by the Department of Labor is required in order to safeguard the interests of Plan policyholders.

(b) The requested exemption will be in the interest of the participants and beneficiaries of the Plans that are policyholders because the requested exemption would allow ERISA-covered Eligible Policyholders, whose membership interests in Phoenix are canceled in the reorganization, to acquire Stock or other valuable property. To the extent distributions are made in the form of Stock, Eligible Policyholders that are Plans will have an opportunity to participate in Phoenix's future earnings through any stock dividends and any appreciation in the value of their Stock while they hold the Stock, and, because the Stock will be publicly traded, they will have an opportunity to sell their holdings of Stock if they decide that it is appropriate to do so. In addition, because the reorganization is expected to enhance Phoenix's ability to access the capital markets, implementation of the Plan of Reorganization will benefit all policyholders. The reorganization will not, in any way, change premiums or reduce policy benefits, values, guarantees or other policy obligations of Phoenix to its policyholders and contract holders.

(c) The proposed transaction will protect the rights of Plans that are Eligible Policyholders because each such Plan, like other Eligible Policyholders, will have an opportunity to comment on the Plan of Reorganization and because one or more independent fiduciaries of each Eligible Policyholder that is a Plan will have an opportunity to decide whether to vote to approve the Plan of Reorganization after disclosure of its terms. Moreover, as discussed above, the Superintendent must make an independent determination that the Plan of Reorganization is fair and equitable to

Phoenix's policyholders, including Plan policyholders.

FOR FURTHER INFORMATION CONTACT:

Karen Lloyd of the Department, telephone (202) 219-8194. (This is not a toll-free number).

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 11th day of April, 2001.

Ivan Strasfeld,

*Director of Exemption Determinations,
Pension and Welfare Benefits Administration,
Department of Labor.*

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DEPARTMENT OF LABOR

**Office of the Assistant Secretary for
Veterans' Employment and Training**

**Homeless Veterans' Reintegration
Project Competitive Grants for FY 2001**

AGENCY: Office of the Assistant Secretary for Veterans' Employment and Training, Labor.

ACTION: Notice of availability of funds and solicitation for grant applications (SGA) for Homeless Veterans Reintegration Projects (SGA 01-02).

SUMMARY: This notice contains all of the necessary information and forms needed to apply for grant funding. All applicants for grant funds should read this notice in its entirety. The U.S. Department of Labor, Veterans' Employment and Training Service, (VETS) announces a grant competition for Homeless Veterans Reintegration Projects (HVRP) authorized under the Stewart B. McKinney Homeless Assistance Act. Such projects will assist eligible veterans who are homeless by providing employment and training, supportive, and transitional housing assistance. Under this solicitation, VETS may award up to thirty grants in Fiscal Year (FY) 2001. This notice describes the background, the application process, description of program activities, evaluation criteria, and reporting requirements for Solicitation of Grant Applications (SGA) 01-02. VETS anticipates that up to \$6.66 million will be available for grant awards under this SGA.

The information and forms contained in the Supplementary Information Section of this announcement constitute the official application package for this Solicitation. To receive any amendments to this Solicitation (Please reference SGA 01-02), which may be subsequently issued, all applicants must register their name and address with the Grant Officer at the following address: U. S. Department of Labor, Procurement Services Center, Room N-5416, 200 Constitution Avenue, NW., Washington, DC 20210.

DATES: Applications and proposals are to be submitted, including those hand-delivered, to the address below by no later than 4:45 p.m., Eastern Time, May

16, 2001, or be postmarked or date stamped by the U.S. Postal Service on or before that date.

ADDRESSES: Applications will be mailed or hand delivered to the U.S. Department of Labor, Procurement Services Center, Attention: Cassandra Willis, Reference SGA 01-02, Room N-5416, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Cassandra Willis, U.S. Department of Labor, Procurement Services Center, telephone (202) 219-6445 [not a toll free number].

SUPPLEMENTARY INFORMATION

**Homeless Veterans Reintegration
Project Solicitation**

I. Purpose

The U.S. Department of Labor (DOL), Veterans' Employment and Training Service, (VETS) is requesting grant applications for the provision of employment and training services in accordance with the Stewart B. McKinney Homeless Assistance Act (MHAA), now called the McKinney-Vento Homeless Assistance Act, as reauthorized and codified at Chapter 41 of 38 U.S.C. Section 4111. These instructions contain general program information, requirements, and forms for application for funds to operate a Homeless Veterans Reintegration Project (HVRP).

II. Background

The Stewart B. McKinney Homeless Assistance Act of 1987, enacted on July 22, 1987, under Title VII, Subtitle C, Section 738(a) provides that "The Secretary * * * shall conduct, directly or through grant or contract, such programs as the Secretary determines appropriate to expedite the reintegration of homeless veterans into the labor force."

This program was reauthorized under Section 621 of the McKinney Homeless Assistance Amendments Act of 1990 (Public Law 101-645) for an additional three years, i.e., through FY 1993. Under the Homeless Veterans Comprehensive Service Programs Act of 1992 (Public Law 102-590—enacted on November 10, 1992), the Homeless Veterans Reintegration Project was reauthorized through Fiscal Year 1995. However, the program was rescinded in FY 1995. Public Law 104-275, dated October 9, 1996, was amended to reauthorize the program through FY 1998. Public Laws 105-41 and 105-114, enacted in 1997, extend the program through FY 1999. Public Law 106-73, dated October 19, 1999, reauthorized and codified at Title