

or administrative fees will be incurred by the Plan since the Employer will absorb the cost of the transfer.

5. Mr. Richard D. Schofield, a registered real estate broker who has been in the real estate business for 17 years, is the general partner of the Partnership. Mr. Schofield represents that as of January 5, 1995, the Interest would be appraised as having a fair market value at its original cost, or \$40,000. This is the purchase price that the Employer proposes to pay to the Plan for the Interest.

6. In summary, the applicant represents that the proposed transaction satisfies the criteria contained in section 408(a) of the Act because: (a) The sale is a one-time transaction for cash; (b) the Plan will pay no commissions or fees in connection with the transaction; (c) the Plan will receive not less than the current fair market value of the Interest at the time of the sale; and (d) the fair market value for the Interest has been determined by Mr. Schofield, a qualified, independent expert who is the general partner of the Partnership.

**FOR FURTHER INFORMATION CONTACT:** Gary H. Lefkowitz of the Department, telephone (202) 219-8881. (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 of 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 7th day of February, 1995.

**Ivan Strasfeld,**

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

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**[Prohibited Transaction Exemption 95-09;  
Exemption Application No. D-09462, et al.]**

#### **Grant of Individual Exemptions; Peoples Security Life Insurance Company, et al.**

**AGENCY:** Pension and Welfare Benefits Administration, Labor.

**ACTION:** Grant of Individual Exemptions.

**SUMMARY:** This document contains exemptions issued by the Department of Labor (the Department) 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).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they

have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

#### **Statutory Findings**

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

#### **Peoples Security Life Insurance Company (Peoples) Located in Durham, North Carolina**

[Exemption Application No.: D-09462]

#### **Commonwealth Life Insurance Company (Commonwealth) Located in Louisville, Kentucky**

[Prohibited Transaction Exemption 95-09;  
Exemption Application No.: D-09463]

#### *Exemption*

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975(c)(1) (A) through (D) of the Code, shall not apply, effective March 1, 1992, to: (1) The extension of credit by Peoples or Commonwealth (the Applicants), the sponsors of an investment product (the Group Annuity Contract or GAC) in connection with a plan's investment in the GAC; and (2) the reimbursement of Peoples or Commonwealth for benefit payments made to investing plans from the cashflow generated by the investments in the plans' Custodian Accounts which are set up by a plan pursuant to the GAC, or (3) the reimbursement of Peoples or Commonwealth for benefit payments made to investing plans from the proceeds generated by liquidation of investments in the Custodial Accounts upon termination of the Group Annuity Contract provided:

1. The decision to enter into the Group Annuity Contract will be made