

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
Maryland Insurance Administration
(DLS Control No. 15-425)**

Overview and Legal and Fiscal Impact

The regulations update provisions on forms and filings required under the Maryland Insurance Acquisition Disclosure and Control Act (Act).

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

Maryland Insurance Administration:

Insurers: Form Filings Under Maryland Insurance Acquisitions Disclosure and Control Act: COMAR 31.04.18.02-.14

Legal Analysis

Background

The Act was significantly updated by Chapter 115 of 2013, which conformed Maryland law to an updated model act promulgated by the National Association of Insurance Commissioners (NAIC), Model 440. The regulations align the existing regulations on acquisition disclosure and control form filings to the amended statute.

Summary of Regulations

The regulations update and expand existing provisions on forms that must be filed with the Maryland Insurance Commissioner under the Act. The regulations also conform to model regulations adopted as the NAIC's Insurance Holding Company System Model Regulation (Model 450).

New Regulation .02 defines terms used in COMAR 31.04.18. Regulation .03 contains guidelines for the Commissioner to use when determining the adequacy of an insurer's surplus. The general contents of disclosure forms and their filing are set forth in Regulations .04 and .05. A person subject to filing may request an extension of the time to file in a separate document under Regulation .06.

The remaining regulations provide details and requirements for filing in specific circumstances. Regulation .07 applies to a pre-acquisition notification required at least 30 days before a proposed merger or acquisition is proposed to become effective. Regulation .08 requires a person to file a specified form at least 60 days before taking control of a domestic insurer. Regulation .09 specifies the contents of a required annual registration statement, and Regulation .10 governs changes to information included in the registration statement. Regulation .11 provides for a disclaimer and notice of termination for a person who relinquishes control of a domestic insurer.

Several types of agreements require prior notice to the Commissioner under the Act. Regulation .12 provides the required contents of the notices, and matters for the Commissioner to review, concerning management agreements, service contracts, tax allocation agreements, and cost-sharing agreements subject to disclosure under the Act.

Regulation .13 requires an ultimately controlling person of an insurer to file a yearly enterprise risk report with the Commissioner. Regulation .14 prohibits a domestic insurer from paying an extraordinary dividend or distribution unless the insurer provides specified notice to the Commissioner at least 30 days in advance.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The Maryland Insurance Administration cites §§ 2-109 and 2-109.1 and Title 7 of the Insurance Article as statutory authority for the regulations. Section 2-109 is the administration's general regulatory authority, and Title 7 is the Maryland Insurance Acquisition Disclosure and Control Act. The other citation should be to § 2-209.1 of the Insurance Article, concerning a supervisory college, an entity to which the Act refers.

With the addition of § 2-209.1, this authority is correct and complete. The regulations comply with the legislative intent of the law.

Technical Corrections and Special Notes

For publication on January 22, 2016, the administration will correct the cited authority to include § 2-209.1 rather than § 2-109.1 of the Insurance Article. The former provision was enacted by Chapter 115, the revision of the Act.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The administration advises that the regulations have no impact on State or local governments. The Department of Legislative Services concurs and notes that the regulations implement provisions of House Bill 431 of 2013 (enacted as Chapter 115). Any fiscal impact has already been assumed under the fiscal and policy note for House Bill 431.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The administration advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

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