

THE INSURANCE CODE OF 1956 (EXCERPT)
Act 218 of 1956

500.1305 Domestic insurers; organization or acquisition of subsidiaries; book of business; value; admitted asset; limitation; amortization; annual test; definition; authority of commissioner.

Sec. 1305. (1) A domestic insurer, either by itself or in cooperation with 1 or more persons, may organize or acquire 1 or more subsidiaries if consistent with other provisions of this act. These subsidiaries may conduct any kind of business and their authority to do so shall not be limited by reason of the fact that they are subsidiaries of a domestic insurer. This provision shall not be construed to provide authority for conduct or activities by these subsidiaries that would otherwise be inconsistent with other provisions of this act.

(2) Except as otherwise provided in subsection (3), if a domestic insurer acquires through a business acquisition or a reinsurance transaction a book of business that includes life insurance or other business written by a life insurance company, and the book of business has a readily determinable market value represented by the present value of the future after-tax profits that will be earned on the book of business in force at the date of the acquisition, the value of the book of business acquired, above any amount previously recognized as an admitted asset under this section or that may be permitted under accounting practices and procedures designated by the commissioner under section 438, may be recognized with the prior approval of the commissioner as an admitted asset in the annual statement filed pursuant to section 438. The commissioner shall make a determination regarding the admissibility of this asset within 60 days after receiving a filing with supporting documentation, in a form satisfactory to the commissioner, from the domestic insurer requesting such approval.

(3) Notwithstanding subsection (2), a domestic insurer may recognize as an admitted asset in the annual statement filed pursuant to section 438 the value of a book of business described in subsection (2) without the prior approval of the commissioner, if the domestic insurer files a written notice with the commissioner of its intent to record the value of the book of business acquired as an admitted asset and provides a certification by an officer of the domestic insurer that, as of the date of the notice, the domestic insurer meets all of the following criteria:

(a) The insurer's most recent a.m. best financial rating is at least an "A".

(b) The insurer has at least 1 additional rating of at least an "A" or its equivalent, as assigned by a rating organization included on the national association of insurance commissioners' list of nationally recognized statistical organizations and approved by the commissioner.

(c) Following the acquisition or reinsurance transaction, the insurer will possess a minimum capital and surplus of at least \$1,000,000,000.00, excluding from the insurer's capital and surplus the pro forma effect of the total value of the book of business to be recognized as an admitted asset by the domestic insurer.

(d) The insurer's total adjusted risk based capital exceeds 5 times the company's authorized control level risk based capital.

(e) The insurer's certificate of authority has not been suspended, revoked, or limited under section 436 at any time during the 5-year period immediately preceding the acquisition or reinsurance transaction.

(f) The insurer is not subject to an analyst team system level A or B designation by the national association of insurance commissioners for the year immediately preceding the acquisition or reinsurance transaction.

(g) Following the acquisition or reinsurance transaction, the insurer will meet the asset requirement under section 901.

(4) The value of the book of business acquired as described in subsection (2) that a domestic insurer may recognize as an admitted asset shall not exceed the lesser of 50% of capital and surplus or the following:

(a) Twenty percent of that adjusted capital and surplus that is less than or equal to 500% of authorized control level risk based capital, plus

(b) Eighty-five percent of that adjusted capital and surplus that is greater than 500%, but less than or equal to 600%, of authorized control level risk based capital, plus

(c) Ninety-five percent of that adjusted capital and surplus that is greater than 600%, but less than or equal to 700%, of authorized control level risk based capital, plus

(d) One hundred percent of that adjusted capital and surplus that is greater than 700% of authorized control level risk based capital.

(5) The value of the book of business acquired as described in subsection (2) shall be amortized pursuant to accounting practices and procedures designated by the commissioner under section 438. The value of the book of business acquired in excess of the amount allowable under this section shall not be an admitted asset in the annual statement filed pursuant to section 438.

(6) A domestic insurer that recognizes as an admitted asset in the annual statement filed pursuant to section

438 any value of business acquired shall annually test the value of the asset for impairment as part of the asset adequacy testing and shall reference this testing in the opinion filed under section 830a.

(7) As used in subsection (4), "adjusted capital and surplus" means capital and surplus as of December 31 of the immediately preceding year, adjusted to exclude any net positive goodwill exclusive of any component of the goodwill relating to the existing value of the book of business acquired, electronic data processing equipment, operating system software, and net deferred tax assets.

(8) Nothing in this section shall be construed to limit the commissioner's authority under sections 436 and 436a.

History: Add. 1970, Act 136, Imd. Eff. July 29, 1970;—Am. 1992, Act 182, Imd. Eff. Oct. 1, 1992;—Am. 2006, Act 55, Imd. Eff. Mar. 9, 2006.

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