

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

500.405 Foreign insurer; revocation of certificate of authority; conditions; requalification for certificate of authority if control acquired; determination.

Sec. 405. (1) Except as provided in subsection (2), the certificate of authority of a foreign insurer with respect to whom control as defined in 115 changes after October 1, 1992 without being subject to the commissioner's approval shall be automatically revoked 90 days after the change in control without further action by the commissioner unless, within 90 days of the change of control or a longer period if the commissioner allows, the insurer requalifies for a certificate of authority under the provisions of this act in force as of the change of control. The certificate of authority shall be revoked under such conditions for the protection of policyholders, creditors, and the public as the commissioner may require. An insurer does not have to requalify for a certificate of authority under this subsection if the commissioner finds all of the following:

(a) The insurer's most recent a.m. best financial rating is at least an "A-" or is a comparable rating as assigned by a nationally recognized statistical rating organization approved by the commissioner.

(b) Following the change in control, the insurer meets the minimum capital and surplus requirements to qualify for and maintain authority to transact insurance in this state under section 410(2) and (3). However, the commissioner may waive the requirement of this subdivision if both of the following apply:

(i) The insurer possessed a certificate of authority to transact insurance in this state prior to the effective date of the amendatory act that added this subparagraph.

(ii) The commissioner finds that the insurer is otherwise safe, reliable, and entitled to public confidence.

(c) The insurer's total capital exceeds 2 times the company's authorized control level.

(d) 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 change of control.

(e) The insurer is not subject to an insurance regulatory information system priority 1 or 2 designation by the national association of insurance commissioners during the year immediately preceding the change of control.

(2) A person seeking to acquire control of a foreign insurer may request the commissioner to determine whether or not the commissioner would requalify the insurer for a certificate of authority if control is acquired. The commissioner shall determine within 90 days after the request is made whether or not the insurer would requalify for a certificate of authority if control is acquired. The commissioner's determination shall be in writing and shall state the commissioner's reasons as to why the commissioner would either grant or deny requalification for a certificate of authority if control is acquired. If the commissioner does not issue his or her determination within this 90-day period and the person seeking the request acquires control of the foreign insurer within 180 days after the request for a determination was made, the insurer shall be automatically requalified for a certificate of authority. If the commissioner issues an affirmative requalification determination and the person requesting the determination acquires control of the foreign insurer within 180 days after the request for a determination was made, the commissioner is prohibited from proceeding under subsection (1).

History: Add. 1992, Act 182, Imd. Eff. Oct. 1, 1992;—Am. 1994, Act 228, Imd. Eff. June 30, 1994;—Am. 1998, Act 457, Imd. Eff. Jan. 4, 1999.

Compiler's note: In the first sentence of subsection (1), the phrase "as defined in 115" evidently should read "as defined in section 115."

Popular name: Act 218