

2010 -- S 2714

LC01946

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO INSURANCE

Introduced By: Senators Lynch, Walaska, and Bates

Date Introduced: March 24, 2010

Referred To: Senate Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 27-4.6-3 of the General Laws in Chapter 27-4.6 entitled "Risk-
2 Based Capital (RBC) for Insurers Act" is hereby amended to read as follows:

3 **27-4.6-3. Company action level event.** -- (a) "Company action level event" means any
4 of the following events:

5 (1) The filing of an RBC report by an insurer that indicates that:

6 (i) The insurer's total adjusted capital is greater than or equal to its regulatory action
7 level RBC but less than its company action level RBC; ~~or~~

8 (ii) If a life and/or health insurer, the insurer has total adjusted capital that is greater than
9 or equal to its company action level RBC but less than the product of its authorized control level
10 RBC and 2.5 and has a negative trend; or

11 (iii) If a property and casualty insurer, the insurer has total adjusted capital which is
12 greater than or equal to its company action level RBC but less than the product of its authorized
13 control level RBC and 3.0 and triggers the trend test determined in accordance with the trend test
14 calculation included in the property and casualty RBC instructions.

15 (2) The notification by the commissioner to the insurer of an adjusted RBC report that
16 indicates an event in subdivision (a)(1), provided the insurer does not challenge the adjusted RBC
17 report under section 27-4.6-7; or

18 (3) If, pursuant to section 27-4.6-7, an insurer challenges an adjusted RBC report that
19 indicates the event in subdivision (a)(1), the notification by the commissioner to the insurer that

1 the commissioner has, after a hearing, rejected the insurer's challenge.

2 (b) In the event of a company action level event, the insurer shall prepare and submit to
3 the commissioner an RBC plan which shall:

4 (1) Identify the conditions that contribute to the company action level event;

5 (2) Contain proposals of corrective actions that the insurer intends to take and would be
6 expected to result in the elimination of the company action level event;

7 (3) Provide projections of the insurer's financial results in the current year and at least
8 the four (4) succeeding years, both in the absence of proposed corrective actions and giving effect
9 to the proposed corrective actions, including projections of statutory operating income, net
10 income, capital and/or surplus. (The projections for both new and renewal business might include
11 separate projections for each major line of business and separately identify each significant
12 income, expense and benefit component);

13 (4) Identify the key assumptions impacting the insurer's projections and the sensitivity of
14 the projections to the assumptions; and

15 (5) Identify the quality of, and problems associated with, the insurer's business,
16 including, but not limited to, its assets, anticipated business growth and associated surplus strain,
17 extraordinary exposure to risk, mix of business and use of reinsurance, if any, in each case.

18 (c) The RBC plan shall be submitted:

19 (1) Within forty-five (45) days of the company action level event; or

20 (2) If the insurer challenges an adjusted RBC report pursuant to section 27-4.6-7, within
21 forty-five (45) days after notification to the insurer that the commissioner has, after a hearing,
22 rejected the insurer's challenge.

23 (d) Within sixty (60) days after the submission by an insurer of an RBC plan to the
24 commissioner, the commissioner shall notify the insurer whether the RBC plan shall be
25 implemented or is, in the judgment of the commissioner, unsatisfactory. If the commissioner
26 determines that the RBC plan is unsatisfactory, the notification to the insurer shall set forth the
27 reasons for the determination, and may set forth proposed revisions which will render the RBC
28 plan satisfactory in the judgment of the commissioner. Upon notification from the commissioner,
29 the insurer shall prepare a revised RBC plan, which may incorporate by reference any revisions
30 proposed by the commissioner, and shall submit the revised RBC plan to the commissioner:

31 (1) Within forty-five (45) days after the notification from the commissioner; or

32 (2) If the insurer challenges the notification from the commissioner under section 27-4.6-
33 7, within forty-five (45) days after a notification to the insurer that the commissioner has, after a
34 hearing, rejected the insurer's challenge.

1 (e) In the event of a notification by the commissioner to an insurer that the insurer's RBC
2 plan or revised RBC plan is unsatisfactory, the commissioner may at the commissioner's
3 discretion, subject to the insurer's right to a hearing under section 27-4.6-7, specify in the
4 notification that the notification constitutes a regulatory action level event.

5 (f) Every domestic insurer that files an RBC plan or revised RBC plan with the
6 commissioner shall file a copy of the RBC plan or revised RBC plan with the insurance
7 commissioner in any state in which the insurer is authorized to do business if:

8 (1) That state has an RBC provision substantially similar to section 27-4.6-8(a); and

9 (2) The insurance commissioner of that state has notified the insurer of its request for the
10 filing in writing, in which case the insurer shall file a copy of the RBC plan or revised RBC plan
11 in that state no later than the later of:

12 (i) Fifteen (15) days after the receipt of notice to file a copy of its RBC plan or revised
13 RBC plan with the state; or

14 (ii) The date on which the RBC plan or revised RBC plan is filed under subsections (c)
15 and (d) of this section.

16 SECTION 2. Section 27-4.7-4 of the General Laws in Chapter 27-4.7 entitled "Risk-
17 Based Capital (RBC) For Health Organizations Act" is hereby amended to read as follows:

18 **27-4.7-4. Company action level event.** -- (a) "Company action level event" means any
19 of the following events:

20 (1) The filing of an RBC report by a health organization that indicates that the health
21 organization's total adjusted capital is greater than or equal to its regulatory action level RBC but
22 less than its company action level RBC;

23 (i) If a health organization has total adjusted capital which is greater than or equal to its
24 company action level RBC but less than the product of its authorized control level RBC and 3.0
25 triggers the trend test determined in accordance with the trend test calculation included in the
26 health RBC instructions;

27 (2) Notification by the commissioner to the health organization of an adjusted RBC
28 report that indicates an event in subdivision (a)(1) of this section, provided the health
29 organization does not challenge the adjusted RBC report under section 27-4.7-8; or

30 (3) If, pursuant to section 27-4.7-8, a health organization challenges an adjusted RBC
31 report that indicates the event in subdivision (a)(1) of this section, the notification by the
32 commissioner to the health organization that the commissioner has, after a hearing, rejected the
33 health organization's challenge.

34 (b) In the event of a company action level event, the health organization shall prepare

1 and submit to the commissioner an RBC plan that shall:

2 (1) Identify the conditions that contribute to the company action level event;

3 (2) Contain proposals of corrective actions that the health organization intends to take
4 and that would be expected to result in the elimination of the company action level event;

5 (3) Provide projections of the health organization's financial results in the current year
6 and at least the two (2) succeeding years, both in the absence of proposed corrective actions and
7 giving effect to the proposed corrective actions, including projections of statutory balance sheets,
8 operating income, net income, capital and surplus, and RBC levels. The projections for both new
9 and renewal business might include separate projections for each major line of business and
10 separately identify each significant income, expense, and benefit component;

11 (4) Identify the key assumptions impacting the health organization's projections and the
12 sensitivity of the projections to the assumptions; and

13 (5) Identify the quality of, and problems associated with, the health organization's
14 business, including, but not limited to, its assets, anticipated business growth and associated
15 surplus strain, extraordinary exposure to risk, mix of business, and use of reinsurance, if any, in
16 each case.

17 (c) The RBC plan shall be submitted:

18 (1) Within forty-five (45) days of the company action level event; or

19 (2) If the health organization challenges an adjusted RBC report pursuant to section 27-
20 4.7-8 within forty-five (45) days after notification to the health organization that the
21 commissioner has, after a hearing, rejected the health organization's challenge.

22 (d) Within sixty (60) days after the submission by a health organization of an RBC plan
23 to the commissioner, the commissioner shall notify the health organization whether the RBC plan
24 shall be implemented or is, in the judgment of the commissioner, unsatisfactory. If the
25 commissioner determines the RBC plan is unsatisfactory, the notification to the health
26 organization shall set forth the reasons for the determination, and may set forth proposed
27 revisions which will render the RBC plan satisfactory in the judgment of the commissioner. Upon
28 notification from the commissioner, the health organization shall prepare a revised RBC plan,
29 which may incorporate by reference any revisions proposed by the commissioner, and shall
30 submit the revised RBC plan to the commissioner:

31 (1) Within forty-five (45) days after the notification from the commissioner; or

32 (2) If the health organization challenges the notification from the commissioner under
33 section 27-4.7-8, within forty-five (45) days after a notification to the health organization that the
34 commissioner has, after a hearing, rejected the health organization's challenge.

1 (e) In the event of a notification by the commissioner to a health organization that the
2 health organization's RBC plan or revised RBC plan is unsatisfactory, the commissioner may, at
3 the commissioner's discretion, subject to the health organization's right to a hearing under section
4 27-4.7-8, specify in the notification that the notification constitutes a regulatory action level
5 event.

6 (f) Every domestic health organization that files an RBC plan or revised RBC plan with
7 the commissioner shall file a copy of the RBC plan or revised RBC plan with the insurance
8 commissioner in any state in which the health organization is authorized to do business if:

9 (1) The state has an RBC provision substantially similar to section 27-4.7-9(a); and

10 (2) The insurance commissioner of that state has notified the health organization of its
11 request for the filing in writing, in which case the health organization shall file a copy of the RBC
12 plan or revised RBC plan in that state no later than the later of:

13 (i) Fifteen (15) days after the receipt of notice to file a copy of its RBC plan or revised
14 RBC plan with the state; or

15 (ii) The date on which the RBC plan or revised RBC plan is filed under subsections (c)
16 and (d) of this section.

17 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO INSURANCE

1 This act would add a trend test to the risk based capital statutes governing insurers and
2 health organizations, financial health determinations.

3 This act would take effect upon passage.

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