

RISK-BASED CAPITAL (RBC) FOR INSURERS MODEL ACT

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Risk





- E. In the event of a notification by the commissioner to an insurer that the insurer's RBC Plan or Revised RBC Plan is unsatisfactory, the commissioner may at the commissioner's discretion, subject to the insurer's right to a hearing under Section 7, specify in the notification that the notification constitutes a Regulatory Action Level Event.
- F. Every domestic insurer that files an RBC Plan or Revised RBC Plan with the commissioner shall file a copy of the RBC Plan or Revised RBC Plan with the insurance commissioner in any state in which the insurer is authorized to do business if:
  - (1) Such state has an RBC provision substantially similar to Section 8A; and
  - (2) The insurance commissioner of that state has notified the insurer of its request for the filing in writing, in which case the insurer shall file a copy of the RBC Plan or Revised RBC Plan in that state no later than the later of:
    - (a) Fifteen (15) days after the receipt of notice to file a copy of its RBC Plan or Revised RBC Plan with the state; or
    - (b) The date on which the RBC Plan or Revised RBC Plan is filed under Section 3C and 3D.

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- (8) Notification by the commissioner to the insurer that the insurer has failed to adhere to its RBC Plan or Revised RBC Plan, but only if such failure has a substantial adverse effect on the ability of the insurer to eliminate the Company Action Level Event in accordance with its RBC Plan or Revised RBC Plan and the commissioner has so stated in the notification, provided the insurer has not challenged the determination under Section 7; or
- (9) If, pursuant to Section 7, the insurer challenges a determination by the commissioner under Paragraph (8) the notification by the commissioner to the insurer that the commissioner has, after a hearing, rejected the challenge.

B. In the event of a Regulatory Action Level Event the commissioner shall:

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- (3) If, pursuant to Section 7, the insure

- (2) With respect to a property and casualty insurer, the commissioner shall take such actions as are necessary to place the insurer under regulatory control ~~under~~ [reference to relevant insurance company rehabilitation and liquidation act], or, in the case of an insurer which is writing no business and n ismuf B co 0.002 Tc[ctff(i)-18 ( i(R)-0.e)4.2 (st (d)-15 ( a)4.2 ce 7R)-0xi (d)-.5



- (1) May share documents, materials or other information, including the confidential and privileged documents, materials or information subject to Subsection A, with other state, federal and international regulatory agencies, with the NAIC and its affiliates and subsidiaries, and with state, federal and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material or other information;
- (2) May receive documents, materials or information, including otherwise confidential and privileged documents, materials or information, from the NAIC and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information; and
- (3) [Optional provision] May enter into agreements governing sharing and use of information consistent with this subsection.

Drafting Note: The language in Subsection C(1) assumes the recipient has the authority to protect confidential information or privilege, but does not address the verification of that authority, which would presumably occur in the context of a broader information sharing agreement.

- D. No waiver of any applicable privilege or claim of confidentiality in documents, materials or information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in Subsection C.
- E. It is the judgment of the legislature that the comparison of an insurer's Adjusted Capital to any of its RBC Levels is a regulatory tool which may indicate the need for possible corrective action with respect to the insurer, and is not intended as a means to rank insurers generally. Therefore, except as otherwise required under the provisions of this Act, the making, publishing, disseminating, circulating or placing





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NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
Florida	FLA. STAT. § 624.4085 (1997/2014) (does not apply to fraternal benefit societies).	
Georgia		GA. CODE ANN. §§ 33-56-1 to 33-56-13 (1996/2000).
Guam	NO CURRENT ACTIVITY	
Hawaii	HAW. REV. STAT	







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<b>NAIC MEMBER</b>	<b>MODEL ADOPTION</b>	<b>RELATED STATE ACTIVITY</b>
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