

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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Columbia  
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To amend the Holding Company System Act of 1993 to change the burden of proof for an acquiring company's proposition to acquire a nonprofit domestic insurer, to extend the length of the review period of the Mayor for certain insurance mergers, and to clarify who may participate in the public hearing; to amend the Hospital and Medical Services Corporation Regulatory Act of 1996 to change the burden of proof for an acquiring company's proposition to acquire a nonprofit domestic insurer.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Department of Insurance and Securities Regulation Merger Review Amendment Act of 2003".

Sec. 2. The Holding Company System Act of 1993, effective October 21, 1993 (D.C. Law 10-44; D.C. Official Code § 31-701 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 31-701) is amended by adding new paragraphs (3A), (4A), and (5A) to read as follows:

Amend  
§ 31-701

"(3A) "Hospital service plan" means a plan for providing hospital and related services by hospitals and others which entitles a subscriber to certain hospital and related services, or to benefits and indemnification for such services.

"(4A) "Medical service plan" means a plan for providing medical services and related services by physicians and others which entitles a subscriber to certain medical and related services, or to benefits and indemnification for such services.

"(5A) "Party" means the Mayor and any person or District government agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party, in any proceeding before the Mayor or an agency, but nothing herein shall be construed to prevent the Mayor or an agency from admitting the Mayor or any person or agency as a party for limited purposes."

(b) Section 4(g) (D.C. Official Code § 31-703(g)) is amended as follows:

Amend  
§ 31-703

(1) Paragraph (1) is amended to read as follows:

"(1)(A) If the acquiring company proposes to acquire a domestic insurer which is

not a nonprofit hospital service plan or medical service plan, the Mayor shall approve any merger or other acquisition of control referred to in subsections (a) and (b) of this section unless, after a public hearing, the Mayor finds that:

"(i) After the change of control, the domestic insurer referred to in subsections (a) and (b) of this section would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

"(ii) The effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in the District or tend to create a monopoly. In applying the competitive standard in this sub-subparagraph:

"(I) The informational requirements of section 5(c)(1) and the standards of section 5(d)(2) shall apply;

"(II) The merger or other acquisition shall not be disapproved if the Mayor finds that any of the situations meeting the criteria provided by section 5(d)(3) exist; and

"(III) The Mayor may condition the approval of the merger or other acquisition on the removal of the basis of disapproval within a specified period of time;

"(iii) The financial condition of any acquiring company is such as might jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders;

"(iv) The plans or proposals which the acquiring company has to liquidate the insurer, sell its assets, or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management are unfair and unreasonable to policyholders of the insurer or are not in the public interest;

"(v) The competence, experience, and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders of the insurer and of the public to permit the merger or other acquisition of control; or

"(vi) The acquisition is likely to be hazardous or prejudicial to the insurance buying public.

"(B)(i) If an acquiring company proposes to acquire a domestic insurer which is a nonprofit hospital plan or medical service plan, the same procedure shall apply as provided in subparagraph (A) of this paragraph; provided, that the acquiring company shall have the burden of establishing that the proposed merger or acquisition of control does not result in the existence of any of the conditions set forth in sub-subparagraphs (i) through (vi) of subparagraph (A).

"(ii) The determination made by the Mayor as provided in subparagraph (A) of this paragraph shall not become effective until 90 days after the Mayor makes the determination."

(2) Paragraph (2) is amended as follows:

(A) Strike the sentence "The public hearing referred to in paragraph (1) of

this subsection shall be held within 30 days after the statement required by subsections (a) and (b) of this section is filed, and at least 20-days notice shall be given by the Mayor to the person filing the statement." and insert the sentence "The public hearing referred to in paragraph (1) of this subsection shall be held within 120 days after the statement required by subsections (a) and (b) of this section is filed, and at least 20-days notice shall be given by the Mayor to the person filing the statement; provided, that the Mayor may extend the 120-day period if all parties consent to the extension." in its place.

(B) Strike the sentence "The Mayor shall make a determination within 30 days after the conclusion of the hearing." and insert the sentence "The Mayor shall make a determination within 120 days after the conclusion of the hearing; provided, that the Mayor may extend this period if all parties consent to the extension." in its place.

(C) Strike the phrase "any person to whom notice of hearing was sent, and any other person whose interest may be affected" and insert the phrase "and any party" in its place.

Sec. 3. The Hospital and Medical Services Corporation Regulatory Act of 1996, effective April 9, 1997 (D.C. Law 11-245; D.C. Official Code § 31-3501 *et seq.*), is amended as follows:

(a) Section 16 (D.C. Official Code § 31-3515) is amended as follows:

(1) Subsection (b) is amended by striking the phrase "company unless" and inserting the phrase "company not involving a nonprofit hospital service plan or medical service plan unless" in its place.

Amend  
§ 31-3515

(2) A new subsection (b-1) is added to read as follows:

"(b-1) In a conversion of a nonprofit hospital service plan or medical service plan to a for-profit insurance company under this section, the acquiring company shall have the burden of establishing that the proposed conversion does not result in the existence of any of the conditions set forth in section (b)(1) through (4) of this subsection."

(b) Section 17 (D.C. Official Code § 31-3516) is amended as follows:

(1) Subsection (b) is amended by striking the phrase "company unless" and inserting the phrase "company not involving a nonprofit hospital service plan or medical service plan unless" in its place.

Amend  
§ 31-3516

(2) A new subsection (b-1) is added to read as follows:

"(b-1) In a conversion of a nonprofit hospital service plan or medical service plan to a mutual insurance company under this section, the acquiring company shall have the burden of establishing that the proposed conversion does not result in the existence of any of the conditions set forth in section (b)(1) through (4) of this subsection."

Sec. 4. Fiscal impact statement.

**ENROLLED ORIGINAL**

The Council adopts the attached fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.2(c)(1)), and publication in the District of Columbia Register.

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Chairman  
Council of the District of Columbia

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Mayor  
District of Columbia