

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 17-0901.02 Thomas Morris x4218

SENATE BILL 17-198

SENATE SPONSORSHIP

Priola,

HOUSE SPONSORSHIP

Garnett,

Senate Committees

Business, Labor, & Technology

House Committees

A BILL FOR AN ACT

101 CONCERNING PUBLIC PARTICIPATION IN THE REVIEW BY THE
102 COMMISSIONER OF INSURANCE OF THE ACQUISITION OF
103 CONTROL OF AN INSURER THAT OFFERS HEALTH PLANS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Current law requires an opportunity for public notice and a hearing for proposed transactions that would result in the acquisition of control of a domestic insurer, which is one that is incorporated or formed pursuant to Colorado law. **Section 1** of the bill expands the public notice for acquisition of a domestic insurer that offers health plans by requiring

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

the commissioner of insurance to make the entire preacquisition notification available for public inspection promptly after filing. **Section 2** requires the commissioner to subject proposed transactions that would result in the acquisition of control of a foreign insurer that offers health plans to public participation requirements that are analogous to those that would be required for domestic insurers that offer health plans.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 10-3-803, **amend**
3 (6)(e) as follows:

4 **10-3-803. Acquisition of control of or merger with domestic**
5 **insurer - definitions.** (6) (e) (I) EXCEPT AS SPECIFIED IN SUBSECTION
6 (6)(e)(II) OF THIS SECTION, the commissioner shall make all data and
7 reports pertaining to the proposed merger and collected or used by the
8 commissioner in his or her investigation and analysis available to the
9 public; except that, in the commissioner's discretion, the commissioner
10 may redact specific items of proprietary information. If the insurer claims
11 that information provided is proprietary, the insurer has the burden of
12 proof on that issue.

13 (II) IF THE PROPOSED ACQUISITION INVOLVES ONE OR MORE
14 HEALTH INSURERS, THE COMMISSIONER SHALL MAKE THE ENTIRE
15 PREACQUISITION NOTICE AVAILABLE FOR PUBLIC INSPECTION PROMPTLY
16 AFTER FILING.

17 **SECTION 2.** In Colorado Revised Statutes, 10-3-803.5, **amend**
18 (2)(a), (3)(a), and (3)(c); and **add** (3)(d) as follows:

19 **10-3-803.5. Acquisitions involving insurers not otherwise**
20 **covered - definitions.** (2) **Scope.** (a) Except as exempted in ~~paragraph~~
21 ~~(b) of this subsection~~ (2) SUBSECTION (2)(b) OF THIS SECTION, this section
22 applies to any acquisition in which there is a change in control of an A

1 FOREIGN insurer authorized to do business in this state.

2 (3) (a) An acquisition covered by subsection ~~(2)~~ (2)(a) of this
3 section may be subject to an order pursuant to subsection (5) of this
4 section unless the acquiring person files a preacquisition notification and
5 the ~~waiting period has expired~~ COMMISSIONER HAS APPROVED THE
6 PROPOSED ACQUISITION IN THE MANNER PRESCRIBED IN THIS SECTION. The
7 acquired person may file a preacquisition notification. The commissioner
8 shall give confidential treatment to information submitted under this
9 subsection (3) in the same manner as otherwise provided in this part 8;
10 EXCEPT THAT, IF THE PROPOSED ACQUISITION INVOLVES ONE OR MORE
11 HEALTH INSURERS, THE COMMISSIONER SHALL MAKE THE ENTIRE
12 PREACQUISITION NOTIFICATION AVAILABLE FOR PUBLIC INSPECTION
13 PROMPTLY AFTER FILING.

14 (c) EXCEPT AS SPECIFIED IN SUBSECTION (3)(d) OF THIS SECTION:

15 (I) The waiting period begins on the date of receipt by the
16 commissioner of a preacquisition notification and ends on the earlier of
17 the thirtieth day after the date of receipt or termination of the waiting
18 period by the commissioner; AND

19 (II) Before the end of the waiting period, the commissioner on a
20 one-time basis may require the submission of additional needed
21 information relevant to the proposed acquisition, in which event the
22 waiting period ends on the earlier of the thirtieth day after receipt of the
23 additional information by the commissioner or termination of the waiting
24 period by the commissioner.

25 (d) IF THE PROPOSED ACQUISITION INVOLVES ONE OR MORE
26 HEALTH INSURERS:

27 (I) THE COMMISSIONER SHALL PROVIDE PUBLIC NOTICE OF THE

1 FILING OF AN APPLICATION FOR AN ACQUISITION OF CONTROL REFERRED TO
2 IN SUBSECTION (2)(a) OF THIS SECTION NO LATER THAN FIVE BUSINESS
3 DAYS AFTER THE RECEIPT OF THE INITIAL APPLICATION. THE
4 COMMISSIONER SHALL ALSO PROVIDE A GENERAL STATEMENT TO THE
5 PUBLIC OF THE PROCESS AND PROCEDURES CONCERNING AN ACQUISITION
6 PURSUANT TO THIS SECTION. THE STATEMENT MUST BE A CLEAR AND
7 CONCISE STATEMENT OF HOW THE PUBLIC MAY PARTICIPATE IN THE
8 REVIEW OF A PROPOSED ACQUISITION, INCLUDING EITHER A PUBLIC
9 HEARING OR THE OPPORTUNITY TO PROVIDE WRITTEN COMMENTS TO THE
10 COMMISSIONER.

11 (II) THE COMMISSIONER SHALL REVIEW THE IMPACT OF A
12 PROPOSED ACQUISITION ON COMPETITION WHEN THE PROPOSED
13 ACQUISITION INVOLVES A TRANSACTION THAT THE COMMISSIONER
14 DETERMINES, UNDER SUBSECTION (5)(a) OF THIS SECTION, WOULD
15 PRESENT PRIMA FACIE EVIDENCE OF A VIOLATION OF THE COMPETITIVE
16 STANDARD ESTABLISHED IN SUBSECTION (4) OF THIS SECTION. THE REVIEW
17 MUST INCLUDE A PUBLIC HEARING OR AN OPPORTUNITY FOR ANY
18 INTERESTED PERSON TO SUBMIT WRITTEN COMMENTS TO THE
19 COMMISSIONER.

20 (III) THE COMMISSIONER SHALL MAKE AVAILABLE TO THE PUBLIC
21 ALL DATA AND REPORTS PERTAINING TO THE PROPOSED ACQUISITION THAT
22 ARE COLLECTED OR USED BY THE COMMISSIONER IN HIS OR HER REVIEW
23 AND ANALYSIS; EXCEPT THAT, IN THE COMMISSIONER'S DISCRETION, THE
24 COMMISSIONER MAY REDACT SPECIFIC ITEMS OR PROPRIETARY
25 INFORMATION. IF AN INSURER CLAIMS THAT INFORMATION PROVIDED IS
26 PROPRIETARY, THE INSURER HAS THE BURDEN OF PROOF ON THAT ISSUE.

27 **SECTION 3. Applicability.** This act applies to applications for

1 proposed acquisitions of control filed on or after the effective date of this
2 act.

3 **SECTION 4. Safety clause.** The general assembly hereby finds,
4 determines, and declares that this act is necessary for the immediate
5 preservation of the public peace, health, and safety.