

the acquisition or formation of a subsidiary and, in the case of the formation of a subsidiary, all organizational expenses and contribution to capital and surplus of such subsidiary whether or not represented by the purchase of capital stock or issuance of other securities.]

[(6)] (5) If the insurer's total liabilities, as calculated for NAIC annual statement purposes, are less than [ten (10)] 10 percent of assets, invest any amount in preferred stock and debt obligations of one or more subsidiaries, provided that after such investment the insurer's surplus as regards policyholders, considering such investment as if it were a disallowed asset, will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

494.

(a) Until all the requirements of this section have been complied with, no person OTHER THAN THE ISSUER shall make a tender offer for or a request or invitation for tenders of, or enter into an agreement to exchange securities for or otherwise acquire, any voting security or security convertible into voting security of a domestic insurer or an insurance holding company which controls one or more domestic insurers if, as a result of the consummation thereof, such person would, directly or indirectly, acquire control of such insurer or insurance holding company, and no person shall enter into an agreement to merge with or otherwise to acquire control of a domestic insurer or insurance holding company which controls one or more domestic insurers[, unless].

(1) (I) FOR THE PURPOSE OF THIS SECTION, "DOMESTIC INSURER" SHALL INCLUDE ANY PERSON CONTROLLING A DOMESTIC INSURER UNLESS SUCH PERSON AS DETERMINED BY THE COMMISSIONER IS EITHER DIRECTLY OR THROUGH ITS AFFILIATES PRIMARILY ENGAGED IN BUSINESS OTHER THAN THE BUSINESS OF INSURANCE.

(II) FOR THE PURPOSE OF THIS SECTION, "PERSON" DOES NOT INCLUDE ANY SECURITIES BROKER HOLDING, IN THE USUAL AND CUSTOMARY BROKERS FUNCTION, LESS THAN 20 PERCENT OF THE VOTING SECURITIES OF AN INSURANCE COMPANY OR OF ANY PERSON WHICH CONTROLS AN INSURANCE COMPANY.

(III) A DOMESTIC INSURER OR ANY PERSON CONTROLLING A DOMESTIC INSURER, WHETHER ENGAGED IN THE BUSINESS OF INSURANCE OR NOT, SHALL FILE A PRE-ACQUISITION NOTIFICATION WITH THE COMMISSIONER CONTAINING THE INFORMATION SET FORTH IN § 494A(C)(1) 30 DAYS BEFORE THE PROPOSED EFFECTIVE DATE OF THE ACQUISITION.

(IV) FAILURE TO FILE THE INFORMATION REQUIRED UNDER SUBPARAGRAPH (III) OF THIS PARAGRAPH IS SUBJECT TO THE PENALTIES PROVIDED UNDER §-494A(E)+3) § 494A(E).