

(B) REBUTTAL OF PRESUMPTION.

THE PRESUMPTION OF CONTROL MAY BE REBUTTED BY SHOWING BY A PREPONDERANCE OF THE EVIDENCE THAT CONTROL DOES NOT EXIST IN FACT.

(C) FINDING BY COMMISSIONER.

(1) NOTWITHSTANDING THE PRESUMPTION OF CONTROL, THE COMMISSIONER, ON APPLICATION OF AN INSURER, MAY FIND THAT A PERSON PRESUMED TO CONTROL AN INSURER OR PERSON DOES NOT HAVE CONTROL OF THE INSURER OR PERSON.

(2) IN ADDITION, THE COMMISSIONER, AFTER NOTICE AND AN OPPORTUNITY TO BE HEARD, MAY FIND THAT A PERSON NOT PRESUMED TO HAVE CONTROL OF AN INSURER OR PERSON DOES HAVE CONTROL OF THE INSURER OR PERSON.

REVISOR'S NOTE: This section is new language derived without substantive change from the second through sixth sentences of former Art. 48A, § 492(c).

In subsection (a)(1) of this section, the word "directs" is substituted for the former word "controls" so as not to use the word "control" in stating the presumption of control.

In subsection (c)(1) and (2) of this section, the defined term "insurer" is substituted for the former term "insurance company" to use the defined term.

Also in subsection (c)(1) and (2) of this section, the defined term "person" is substituted for the former word "company" in each instance to conform to the references to control of "another person" or of a "person" in subsection (a)(1) and (2) of this section, respectively.

- Defined terms: "Commissioner" § 1-101
- "Control" § 1-101
- "Insurer" § 1-101
- "Person" § 1-101

7-105. STANDARDS FOR REASONABLENESS OF ASSETS AND SURPLUS AS REGARDS POLICYHOLDERS.

(A) IN GENERAL.

FOR PURPOSES OF THIS TITLE, IN DETERMINING WHETHER AN INSURER'S ASSETS AND SURPLUS AS REGARDS POLICYHOLDERS ARE REASONABLE IN RELATION TO THE INSURER'S OUTSTANDING LIABILITIES AND ADEQUATE TO ITS FINANCIAL NEEDS, THE FOLLOWING FACTORS, AMONG OTHERS, SHALL BE CONSIDERED:

(1) THE SIZE OF THE INSURER AS MEASURED BY ITS ASSETS, CAPITAL AND SURPLUS, RESERVES, PREMIUM WRITINGS, INSURANCE IN FORCE, AND OTHER APPROPRIATE CRITERIA;