

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

(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 DOES HAVE CONTROL OF THE INSURER.

REVISOR'S NOTE: This section is new language derived without substantive change from the second through fifth sentences of former Art. 48A, § 661(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.

Defined terms: "Commissioner" § 1-101

"Control" § 1-101

"Insurer" § 1-101

"Person" § 1-101

8-105. PLACEMENT OF BUSINESS WITH CONTROLLED INSURER.

(A) "INDEPENDENT CASUALTY ACTUARY" DEFINED.

IN THIS SECTION, "INDEPENDENT CASUALTY ACTUARY" MEANS A CASUALTY ACTUARY WHO:

(1) IS A MEMBER OF THE AMERICAN ACADEMY OF ACTUARIES; AND

(2) IS NOT AFFILIATED WITH, AN EMPLOYEE OF, A PRINCIPAL OF, THE DIRECT OR INDIRECT OWNER OF, OR IN ANY WAY IN THE CONTROL OF A CONTROLLED INSURER OR A CONTROLLING BROKER.

(B) REQUIREMENTS FOR PLACING BUSINESS — IN GENERAL.

IF A CONTROLLING BROKER, WHEN THE INSURANCE BUSINESS IS PLACED, IS ACTING IN A TRANSACTION ON BEHALF OF AN INSURED FOR COMPENSATION, COMMISSION, OR OTHER VALUABLE CONSIDERATION, THE CONTROLLING BROKER MAY NOT DIRECTLY OR INDIRECTLY PLACE INSURANCE BUSINESS WITH ITS CONTROLLED INSURER UNLESS THE REQUIREMENTS OF THIS SECTION ARE MET.

(C) SAME — WRITTEN CONTRACT.

THERE SHALL BE A WRITTEN CONTRACT BETWEEN THE CONTROLLING BROKER AND CONTROLLED INSURER THAT HAS BEEN APPROVED BY THE BOARD OF DIRECTORS OF THE CONTROLLED INSURER.

(D) SAME — DISCLOSURE OF RELATIONSHIP BETWEEN BROKER AND INSURER.