

(II) THE FAILURE HAS A SUBSTANTIAL ADVERSE EFFECT ON THE ABILITY OF THE INSURER TO ELIMINATE THE COMPANY ACTION LEVEL EVENT WITH RESPECT TO THE INSURER IN ACCORDANCE WITH ITS RBC PLAN OR REVISED RBC PLAN; OR

(4) NOTIFICATION TO AN INSURER BY THE COMMISSIONER OF A CORRECTIVE ORDER WITH RESPECT TO THE INSURER.

(B) (1) AT THE REQUEST OF AN INSURER, THE COMMISSIONER SHALL HOLD A CONFIDENTIAL HEARING ON THE RECORD UNDER § 2-213(A) OF THIS ARTICLE TO DETERMINE THE VALIDITY OF A CHALLENGE BY THE INSURER.

(2) TO REQUEST A HEARING UNDER THIS SUBSECTION, THE INSURER SHALL NOTIFY THE COMMISSIONER OF ITS REQUEST WITHIN 5 DAYS AFTER THE NOTIFICATION BY THE COMMISSIONER UNDER SUBSECTION (A) OF THIS SECTION.

(3) ON RECEIPT OF THE INSURER'S REQUEST FOR A HEARING, THE COMMISSIONER SHALL HOLD A HEARING WITHIN 30 DAYS AFTER THE DATE OF THE INSURER'S REQUEST.

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(A) ALL RBC REPORTS AND RBC PLANS RELATED TO ANY DOMESTIC INSURER OR FOREIGN INSURER THAT ARE FILED WITH THE COMMISSIONER:

(1) CONSTITUTE CONFIDENTIAL COMMERCIAL INFORMATION THAT MIGHT BE DAMAGING TO THE INSURER IF MADE AVAILABLE TO THE INSURER'S COMPETITORS;

(2) SHALL BE KEPT CONFIDENTIAL BY THE COMMISSIONER; AND

(3) MAY NOT BE MADE PUBLIC OR BE SUBJECT TO SUBPOENA, OTHER THAN BY THE COMMISSIONER AND THEN ONLY FOR THE PURPOSE OF ENFORCEMENT ACTIONS TAKEN BY THE COMMISSIONER UNDER THIS SUBTITLE OR ANY OTHER PROVISION OF THIS ARTICLE.

(B) THE PROVISIONS OF THIS SECTION APPLY TO:

(1) RBC REPORTS, TO THE EXTENT THE INFORMATION IN THE RBC REPORT IS NOT REQUIRED TO BE SET FORTH IN A PUBLICLY AVAILABLE ANNUAL STATEMENT SCHEDULE; AND

(2) RBC PLANS, INCLUDING THE RESULTS OR REPORT OF ANY EXAMINATION OR ANALYSIS OF AN INSURER PERFORMED IN CONNECTION WITH ANY RBC PLAN AND ANY CORRECTIVE ORDER ISSUED BY THE COMMISSIONER PURSUANT TO THE EXAMINATION OR ANALYSIS.

(C) IT IS THE PUBLIC POLICY OF THE STATE THAT THE COMPARISON OF AN INSURER'S TOTAL ADJUSTED CAPITAL TO ANY OF ITS RBC LEVELS:

(1) IS A REGULATORY TOOL THAT MAY INDICATE THE NEED FOR POSSIBLE CORRECTIVE ACTION WITH RESPECT TO THE INSURER; AND