Effective: January 1, 2006

West's Annotated California Codes Currentness
Insurance Code (Refs & Annos)
Division 1. General Rules Governing Insurance (Refs & Annos)
Part 2. The Business of Insurance (Refs & Annos)
Chapter 2. Incorporated Insurers (Refs & Annos)
Article 4.7. Insurance Holding Company System Regulatory Act (Refs & Annos)

§ 1215.2. Tender offers

(a) No person shall make a tender offer for, or a request or invitation for tenders of, or enter into an agreement to exchange securities for or acquire in the open market, any voting security, or any security convertible into a voting security, of a domestic insurer or of any other person controlling a domestic insurer, if the other person is not substantially engaged either directly or through its affiliates in any businesses other than that of insurance, if, as a result of the consummation thereof, the person would, directly or indirectly, acquire control of the insurer, and no person shall enter into an agreement to merge with or otherwise to acquire control of a domestic insurer, unless, at the time copies of the offer, purchase, request, or invitation are first published, sent, or given to security holders or the agreement or transaction is entered into, as the case may be, the person has filed with the commissioner, and has sent to the insurer, a statement containing the following information, and any additional information as the commissioner may by rule or regulation prescribe as necessary or appropriate in the public interest or for the protection of policyholders or shareholders:

(1) The background and identity of all persons by whom or on whose behalf the purchases or the exchange, merger, or other acquisition of control are to be effected.

(2) The source and amount of the funds or other consideration used or to be used in making the purchases or in effecting the exchange, merger, or other acquisition of control, and, if any part of the funds or other consideration has been or is to be borrowed or otherwise obtained for the purpose of making the purchases or effecting the exchange, merger, or other acquisition of control, a description of the transaction and the names of the parties thereto. However, where a source of funds is a loan made in the lender's ordinary course of business, if the person filing the statement so requests, the name of the lender shall not be made available to the public.

(3) Any plans or proposals which those persons may have to liquidate the insurer, to sell its assets or merge it with any person, or to make any other major change in its business or corporate structure or management.

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(4) The amount of each class of voting securities or securities which may be converted into voting securities of the insurer or the controlling person which are beneficially owned, and the amount of each class of voting securities or securities which may be converted into voting securities of the insurer or the controlling person concerning which there is a right to acquire beneficial ownership, by each person and by each affiliate of each person, together with the name and address of each affiliate.

(5) Information as to any contracts, arrangements, or understandings with any person with respect to any securities of the insurer or the controlling person, including, but not limited to, transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies, naming the persons with whom the contracts, arrangements, or understandings have been entered into, and giving the details thereof.

All requests or invitations for tenders or advertisements making a tender offer or requesting or inviting tenders of the voting securities of the insurer or the controlling person made by or on behalf of the person, and a copy of the agreement to exchange or otherwise acquire securities or to merge with or otherwise to acquire control of the insurer, shall be filed with the commissioner and sent to the insurer as a part of the statement and shall contain the information contained in the statement as the commissioner may by rule or regulation prescribe. Copies of any additional material soliciting or requesting the tender offers subsequent to the initial solicitation or request, and copies of any amendment to the agreement, shall contain the information as the commissioner may by rule or regulation prescribe as necessary or appropriate in the public interest or for the protection of policyholders or shareholders, and shall be filed with the commissioner and sent to the insurer not later than the time copies of the material are first published or sent or given to security holders or the amendment is entered into.

(b) If the person required to file the statement referred to in subdivision (a) is a partnership, limited partnership, syndicate, or other group, the commissioner may require that the information called for by paragraphs (1) to (5), inclusive, of subdivision (a) shall be given with respect to: (1) each partner of the partnership or limited partnership, (2) each member of the syndicate or group, and (3) each person who controls the partner or member. If a person referred to in paragraph (1), (2), or (3) of this subdivision is a corporation or the person required to file the statement referred to in subdivision (a) is a corporation, the commissioner may require that the information called for by paragraphs (1) to (5), inclusive, of subdivision (a) shall be given with respect to the corporation and each officer and director of the corporation and each person who is directly or indirectly the beneficial owner of more than 10 percent of the outstanding voting securities of the corporation.

(c) If any tender offer, request, or invitation for tenders, or agreement to exchange or otherwise acquire securities or to merge or otherwise acquire control referred to in subdivision (a), is proposed to be made by means of a registration statement under the federal Securities Act of 1933, or in circumstances requiring the disclosure of similar information under the federal

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Securities Exchange Act of 1934, or under a state law requiring similar registration or disclosure, the person required to file the statement referred to in subdivision (a) may file that registration statement with the commissioner as full satisfaction of the requirement in subdivision (a).

(d) The purchases, exchanges, mergers, or other acquisitions of control referred to in subdivision (a) may not be made until the commissioner approves the purchases, exchanges, mergers, or other acquisitions of control. The commissioner shall approve or disapprove the transaction within 60 days after the statement required by subdivision (a) has been filed with the commissioner. The commissioner may disapprove the transaction if the commissioner finds any of the following:

(1) After the change of control the domestic insurer referred to in subdivision (a) could not satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed.

(2) The purchases, exchanges, mergers, or other acquisitions of control would substantially lessen competition in insurance in this state or create a monopoly therein.

(3) The financial condition of an acquiring person might jeopardize the financial stability of the insurer, or prejudice the interests of its policyholders.

(4) The plans or proposals which the acquiring person has to liquidate the insurer, to sell its assets, or to merge it with any person, or to make any other major change in its business or corporate structure or management, are not fair and reasonable to policyholders.

(5) The competence, experience, and integrity of those persons who would control the operation of the insurer indicate that it would not be in the interest of policyholders, or the public to permit them to do so.

(e) The commissioner shall require the payment of two thousand three hundred sixty dollars ($2,360) as a fee for filing an application under this section, the amount to accompany the application.

(f) This section shall not apply to any offer for or request or invitation for tenders of any voting securities, or any agreement to exchange securities for or otherwise acquire control, if the insurer whose shares are to be acquired remains a direct or indirect subsidiary of the same ultimate controlling company person within the insurer's insurance holding company system, neither the acquiring person nor any affiliate acquires or incurs any debt, guarantee, or other liability related to the transaction, and no shares are purchased by or sold to a person who is not an affiliated person in that insurance holding company system, or if, and to the extent that,

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the commissioner, by rule or regulation or by order, exempts the offer, request, invitation, or agreement from the provisions of this section as not comprehended within the purposes thereof.

CREDIT(S)

(Added by Stats.1969, c. 1275, p. 2487, § 1. Amended by Stats.1981, c. 1131, p. 4424, § 7, operative July 1, 1982; Stats.1985, c. 770, § 6.4; Stats.1996, c. 311 (S.B.1496), § 1; Stats.2004, c. 599 (A.B.1728), § 6; Stats.2005, c. 22 (S.B.1108), § 138.)

FEES AND CHARGES

<Commissioner's authority to increase or decrease fees and schedule of fees and charges, see Insurance Code § 12978.>

Current with urgency legislation through Ch. 227 of 2012 Reg.Sess. and all propositions on the 6/5/2012 ballot.

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