

SB198 L.004

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Business, Labor, & Technology.

SB17-198 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and  
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, 10-3-803.5, amend  
4 (3)(a), (3)(c), and (5)(a)(II); and add (3)(d) as follows:

5 10-3-803.5. Acquisitions involving insurers not otherwise  
6 covered - definitions. (3) (a) An acquisition covered by subsection (2)  
7 of this section may be subject to an order pursuant to subsection (5) of  
8 this section unless the acquiring person files a preacquisition notification  
9 and the waiting period has expired. The acquired person may file a  
10 preacquisition notification. The commissioner shall give confidential  
11 treatment to information submitted under this subsection (3) in the same  
12 manner as otherwise provided in this part 8; EXCEPT THAT THE NOTICE  
13 REQUIRED BY SUBSECTION (3)(d)(I) OF THIS SECTION MUST INCLUDE THE  
14 INFORMATION SPECIFIED IN SUBSECTION (3)(d)(I) OF THIS SECTION IF THE  
15 PREACQUISITION NOTIFICATION PRESENTS PRIMA FACIE EVIDENCE OF A  
16 VIOLATION OF THE COMPETITIVE STANDARD SPECIFIED IN SUBSECTION  
17 (4)(b) OF THIS SECTION.

18 (c) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3)(d) OF THIS  
19 SECTION:

20 (I) The waiting period begins on the date of receipt by the  
21 commissioner of a preacquisition notification and ends on the earlier of  
22 the thirtieth day after the date of receipt or termination of the waiting  
23 period by the commissioner; AND

24 (II) Before the end of the waiting period, the commissioner, on a  
25 one-time basis, may require the submission of additional needed  
26 information relevant to the proposed acquisition, in which event the  
27 waiting period ends on the earlier of the thirtieth day after receipt of the  
28 additional information by the commissioner or termination of the waiting  
29 period by the commissioner.

30 (d) IF THE PROPOSED ACQUISITION INVOLVES ONE OR MORE  
31 HEALTH INSURERS:

32 (I) THE COMMISSIONER SHALL PROVIDE PUBLIC NOTICE OF THE  
33 FILING OF AN APPLICATION FOR AN ACQUISITION OF CONTROL REFERRED TO  
34 IN SUBSECTION (2)(a) OF THIS SECTION NO LATER THAN FIVE BUSINESS  
35 DAYS AFTER THE RECEIPT OF THE PREACQUISITION NOTIFICATION  
36 REQUIRED BY SUBSECTION (3)(a) OF THIS SECTION. IF THE PREACQUISITION  
37 NOTIFICATION PRESENTS PRIMA FACIE EVIDENCE OF A VIOLATION OF THE

1 COMPETITIVE STANDARD SPECIFIED IN SUBSECTION (4)(b) OF THIS SECTION,  
2 THE NOTICE MUST INCLUDE:

3 (A) THE RELEVANT PRODUCT FOR WHICH PRIMA FACIE EVIDENCE  
4 OF THE VIOLATION OF THE COMPETITIVE STANDARD WAS PRESENTED IN  
5 THE PREACQUISITION NOTICE;

6 (B) THE RELEVANT GEOGRAPHIC MARKET FOR WHICH PRIMA FACIE  
7 EVIDENCE OF THE VIOLATION OF THE COMPETITIVE STANDARD WAS  
8 PRESENTED IN THE PREACQUISITION NOTICE; AND

9 (C) AS SPECIFIED IN SUBSECTION (4)(b)(I)(A) OR (4)(b)(I)(B) OF  
10 THIS SECTION, THE SHARES OF THE MARKET IN WHICH PRIMA FACIE  
11 EVIDENCE OF THE VIOLATION OF THE COMPETITIVE STANDARD WAS  
12 PRESENTED IN THE PREACQUISITION NOTICE.

13 (II) THE COMMISSIONER SHALL REVIEW THE IMPACT OF A  
14 PROPOSED ACQUISITION ON COMPETITION WHEN THE PROPOSED  
15 ACQUISITION INVOLVES A TRANSACTION THAT THE COMMISSIONER  
16 DETERMINES WOULD PRESENT PRIMA FACIE EVIDENCE OF A VIOLATION OF  
17 THE COMPETITIVE STANDARD SPECIFIED IN SUBSECTION (4) OF THIS  
18 SECTION. THE REVIEW MUST INCLUDE A PUBLIC HEARING OR AN  
19 OPPORTUNITY FOR THE PUBLIC TO SUBMIT WRITTEN COMMENTS TO THE  
20 COMMISSIONER.

21 (III) THE WAITING PERIOD BEGINS ON THE DATE OF RECEIPT BY THE  
22 COMMISSIONER OF A PREACQUISITION NOTIFICATION AND, EXCEPT AS  
23 SPECIFIED IN SUBSECTION (3)(d)(IV) OF THIS SECTION, ENDS ON THE  
24 EARLIER OF THE THIRTIETH DAY AFTER THE DATE OF RECEIPT OF THE  
25 PREACQUISITION NOTIFICATION OR TERMINATION OF THE WAITING PERIOD  
26 BY THE COMMISSIONER.

27 (IV) IF THE COMMISSIONER ALLOWS FOR PUBLIC COMMENT AS  
28 PART OF THE REVIEW OF A MERGER, THE WAITING PERIOD ENDS ON THE  
29 EARLIER OF THE THIRTIETH DAY AFTER THE DATE OF RECEIPT OF THE  
30 PREACQUISITION NOTIFICATION OR TERMINATION OF THE WAITING PERIOD  
31 BY THE COMMISSIONER. IF THE COMMISSIONER HOLDS A HEARING AS PART  
32 OF THE REVIEW OF A MERGER, THE WAITING PERIOD ENDS ON THE DATE OF  
33 THE HEARING.

34 (V) BEFORE THE END OF THE WAITING PERIOD, THE COMMISSIONER,  
35 ON A ONE-TIME BASIS, MAY REQUIRE THE SUBMISSION OF ADDITIONAL  
36 NEEDED INFORMATION RELEVANT TO THE PROPOSED ACQUISITION.

37 (VI) NOTHING IN THIS SECTION PREVENTS AN APPLICANT FROM  
38 MAKING THE PREACQUISITION NOTIFICATION AVAILABLE FOR  
39 CONFIDENTIAL STAKEHOLDER INSPECTION.

40 (5) **Orders and penalties.** (a) (II) The commissioner shall not  
41 enter an order under this paragraph (a) unless:

1 (A) There is a hearing on the proposed order;

2 (B) EXCEPT FOR A HEARING HELD PURSUANT TO SUBSECTION (3)(d)  
3 OF THIS SECTION, notice of the hearing is issued before the end of the  
4 waiting period and not less than fifteen days before the hearing; and

5 (C) FOR A HEARING HELD PURSUANT TO SUBSECTION (3)(d) OF THIS  
6 SECTION, NOTICE OF THE HEARING IS ISSUED BY THE LATER OF THE  
7 THIRTIETH DAY AFTER RECEIPT BY THE COMMISSIONER OF A  
8 PREACQUISITION NOTIFICATION OR BY THE DATE THE COMMISSIONER SETS  
9 FOR THE RECEIPT OF PUBLIC COMMENTS;

10 ~~(C)~~ (D) EXCEPT FOR A HEARING HELD PURSUANT TO SUBSECTION  
11 (3)(d) OF THIS SECTION, the hearing is concluded and the order is issued  
12 no later than sixty days after the date of the filing of the preacquisition  
13 notification with the commissioner; AND

14 (E) FOR A HEARING HELD PURSUANT TO SUBSECTION (3)(d) OF THIS  
15 SECTION, THE HEARING IS CONCLUDED AND THE ORDER IS ISSUED NO  
16 LATER THAN SIXTY DAYS AFTER THE END OF THE WAITING PERIOD.

17 **SECTION 2. Applicability.** This act applies to applications for  
18 proposed acquisitions of control filed on or after the effective date of this  
19 act.

20 **SECTION 3. Safety clause.** The general assembly hereby finds,  
21 determines, and declares that this act is necessary for the immediate  
22 preservation of the public peace, health, and safety."

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