

**First Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO**

**REREVISED**

*This Version Includes All Amendments  
Adopted in the Second House*

LLS NO. 17-0901.02 Thomas Morris x4218

**SENATE BILL 17-198**

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**SENATE SPONSORSHIP**

**Priola,**

**HOUSE SPONSORSHIP**

**Garnett,**

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**Senate Committees**

Business, Labor, & Technology  
Appropriations

**House Committees**

Business Affairs and Labor  
Appropriations

HOUSE  
3rd Reading Unamended  
May 3, 2017

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**A BILL FOR AN ACT**

101      **CONCERNING PUBLIC PARTICIPATION IN THE REVIEW BY THE**  
102              **COMMISSIONER OF INSURANCE OF THE ACQUISITION OF**  
103              **CONTROL OF AN INSURER THAT OFFERS HEALTH PLANS, AND, IN**  
104              **CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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HOUSE  
2nd Reading Unamended  
May 2, 2017

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

SENATE  
3rd Reading Unamended  
April 12, 2017

Current law requires an opportunity for public notice and a hearing for proposed transactions that would result in the acquisition of control of a domestic insurer, which is one that is incorporated or formed

SENATE  
Amended 2nd Reading  
April 11, 2017

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

pursuant to Colorado law. **Section 1** of the bill expands the public notice for acquisition of a domestic insurer that offers health plans by requiring the commissioner of insurance to make the entire preacquisition notification available for public inspection promptly after filing. **Section 2** requires the commissioner to subject proposed transactions that would result in the acquisition of control of a foreign insurer that offers health plans to public participation requirements that are analogous to those that would be required for domestic insurers that offer health plans.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

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

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

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

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

1 period by the commissioner; AND

2 (II) Before the end of the waiting period, the commissioner, on a  
3 one-time basis, may require the submission of additional needed  
4 information relevant to the proposed acquisition, in which event the  
5 waiting period ends on the earlier of the thirtieth day after receipt of the  
6 additional information by the commissioner or termination of the waiting  
7 period by the commissioner.

8 (d) IF THE PROPOSED ACQUISITION INVOLVES ONE OR MORE  
9 HEALTH INSURERS:

10 (I) THE COMMISSIONER SHALL PROVIDE PUBLIC NOTICE OF THE  
11 FILING OF AN APPLICATION FOR AN ACQUISITION OF CONTROL REFERRED TO  
12 IN SUBSECTION (2)(a) OF THIS SECTION NO LATER THAN FIVE BUSINESS  
13 DAYS AFTER THE RECEIPT OF THE PREACQUISITION NOTIFICATION  
14 REQUIRED BY SUBSECTION (3)(a) OF THIS SECTION. IF THE PREACQUISITION  
15 NOTIFICATION PRESENTS PRIMA FACIE EVIDENCE OF A VIOLATION OF THE  
16 COMPETITIVE STANDARD SPECIFIED IN SUBSECTION (4)(b) OF THIS SECTION,  
17 THE NOTICE MUST INCLUDE:

18 (A) THE RELEVANT PRODUCT FOR WHICH PRIMA FACIE EVIDENCE  
19 OF THE VIOLATION OF THE COMPETITIVE STANDARD WAS PRESENTED IN  
20 THE PREACQUISITION NOTICE;

21 (B) THE RELEVANT GEOGRAPHIC MARKET FOR WHICH PRIMA FACIE  
22 EVIDENCE OF THE VIOLATION OF THE COMPETITIVE STANDARD WAS  
23 PRESENTED IN THE PREACQUISITION NOTICE; AND

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

1           (II) THE COMMISSIONER SHALL REVIEW THE IMPACT OF A  
2           PROPOSED ACQUISITION ON COMPETITION WHEN THE PROPOSED  
3           ACQUISITION INVOLVES A TRANSACTION THAT THE COMMISSIONER  
4           DETERMINES WOULD PRESENT PRIMA FACIE EVIDENCE OF A VIOLATION OF  
5           THE COMPETITIVE STANDARD SPECIFIED IN SUBSECTION (4) OF THIS  
6           SECTION. THE REVIEW MUST INCLUDE A PUBLIC HEARING OR AN  
7           OPPORTUNITY FOR THE PUBLIC TO SUBMIT WRITTEN COMMENTS TO THE  
8           COMMISSIONER.

9           (III) THE WAITING PERIOD BEGINS ON THE DATE OF RECEIPT BY THE  
10           COMMISSIONER OF A PREACQUISITION NOTIFICATION AND, EXCEPT AS  
11           SPECIFIED IN SUBSECTION (3)(d)(IV) OF THIS SECTION, ENDS ON THE  
12           EARLIER OF THE THIRTIETH DAY AFTER THE DATE OF RECEIPT OF THE  
13           PREACQUISITION NOTIFICATION OR TERMINATION OF THE WAITING PERIOD  
14           BY THE COMMISSIONER.

15           (IV) IF THE COMMISSIONER ALLOWS FOR PUBLIC COMMENT AS  
16           PART OF THE REVIEW OF A MERGER, THE WAITING PERIOD ENDS ON THE  
17           EARLIER OF THE THIRTIETH DAY AFTER THE DATE OF RECEIPT OF THE  
18           PREACQUISITION NOTIFICATION OR TERMINATION OF THE WAITING PERIOD  
19           BY THE COMMISSIONER. IF THE COMMISSIONER HOLDS A HEARING AS PART  
20           OF THE REVIEW OF A MERGER, THE WAITING PERIOD ENDS ON THE DATE OF  
21           THE HEARING.

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

25           (VI) NOTHING IN THIS SECTION PREVENTS AN APPLICANT FROM  
26           MAKING THE PREACQUISITION NOTIFICATION AVAILABLE FOR  
27           CONFIDENTIAL STAKEHOLDER INSPECTION.

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

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

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

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

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

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

19           **SECTION 2. Appropriation.** (1) For the 2017-18 state fiscal  
20 year, \$9,505 is appropriated to the department of regulatory agencies for  
21 use by the executive director's office. This appropriation is from the  
22 division of insurance cash fund created in section 10-1-103 (3), C.R.S. To  
23 implement this act, the office may use this appropriation for legal  
24 services.

25           (2) For the 2017-18 state fiscal year, \$9,505 is appropriated to the  
26 department of law. This appropriation is from reappropriated funds  
27 received from the department of regulatory agencies under subsection (1)

1 of this section and is based on an assumption that the department of law  
2 will require an additional 0.1 FTE. To implement this act, the department  
3 of law may use this appropriation to provide legal services for the  
4 department of regulatory agencies.

5 **SECTION 3. Applicability.** This act applies to applications for  
6 proposed acquisitions of control filed on or after the effective date of this  
7 act.

8 **SECTION 4. Safety clause.** The general assembly hereby finds,  
9 determines, and declares that this act is necessary for the immediate  
10 preservation of the public peace, health, and safety.