

**60G.20 STANDARDS.**

Subdivision 1. **Hazardous consideration.** The following standards, either singly or a combination of two or more, may be considered by the commissioner to determine whether the continued operation of any insurer, whether domestic, foreign, or alien, transacting an insurance business in this state may be considered hazardous to the policyholders, creditors or the general public. The commissioner may consider:

- (1) an adverse finding reported in financial condition and market conduct examination reports;
- (2) the National Association of Insurance Commissioners insurance regulatory information system and its related reports;
- (3) the ratios of commission expense, general insurance expense, policy benefits, and reserve increases as to annual premium and net investment income which may lead to an impairment of capital and surplus;
- (4) whether the insurer's asset portfolio when viewed in light of current economic conditions is not of sufficient value, liquidity, or diversity to assure the company's ability to meet its outstanding obligations as they mature;
- (5) the ability of an assuming reinsurer to perform and whether the insurer's reinsurance program provides sufficient protection for the company's remaining surplus after taking into account the insurer's cash flow and the classes of business written as well as the financial condition of the assuming reinsurer;
- (6) whether the insurer's operating loss in the last 12-month period or any shorter period of time, including, but not limited to, net capital gain or loss, change in nonadmitted assets, and cash dividends paid to shareholders, is greater than 50 percent of the insurer's remaining surplus as regards policyholders in excess of the minimum required;
- (7) whether any affiliate, subsidiary, or reinsurer is insolvent, threatened with insolvency, or delinquent in payment of its monetary or other obligations;
- (8) contingent liabilities, pledges, or guaranties which either individually or collectively involve a total amount which in the opinion of the commissioner may affect the solvency of the insurer;
- (9) whether any "controlling person" of an insurer is delinquent in the transmitting to, or payment of, net premiums to the insurer;
- (10) the age and collectibility of receivables;
- (11) whether the management of an insurer, including officers, directors, or any other person who directly or indirectly controls the operation of the insurer, fails to possess and demonstrate the competence, fitness, and reputation necessary to serve the insurer in the position;
- (12) whether management of an insurer has failed to respond to inquiries relative to the condition of the insurer or has furnished false and misleading information concerning an inquiry;
- (13) whether management of an insurer either has filed a false or misleading sworn financial statement, or has released a false or misleading financial statement to lending institutions or to the general public, or has made a false or misleading entry, or has omitted an entry of material amount in the books of the insurer;
- (14) whether the insurer has grown so rapidly and to such an extent that it lacks adequate financial and administrative capacity to meet its obligations in a timely manner; or

(15) whether the company has experienced or will experience in the foreseeable future cash flow or liquidity problems.

Subd. 2. **Commissioner's authority.** For the purposes of making a determination of an insurer's financial condition under subdivision 1, the commissioner may:

(1) disregard any credit or amount receivable resulting from transactions with a reinsurer which is insolvent, impaired, or otherwise subject to a delinquency proceeding;

(2) make appropriate adjustments to asset values attributable to investments in or transactions with the corporation's parents, subsidiaries, or affiliates;

(3) refuse to recognize the stated value of accounts receivable if the ability to collect receivables is highly speculative in view of the age of the account or the financial condition of the debtor; or

(4) increase the insurer's liability in an amount equal to any contingent liability, pledge, or guarantee not otherwise included if there is a substantial risk that the insurer will be called upon to meet the obligation undertaken within the next 12-month period.

**History:** 1991 c 325 art 3 s 1