

64B.43 FRATERNAL AUTHORIZED CONTROL LEVEL EVENT.

Subdivision 1. **Definition.** "Fraternal authorized control level event" means any of the following events:

(1) the filing of a risk-based capital report by the society that indicates that the society's total adjusted capital is less than its fraternal authorized control level risk-based capital;

(2) the notification by the commissioner to the society of an adjusted risk-based capital report that indicates the event in clause (1), provided the society does not challenge the adjusted risk-based capital report under section 64B.44;

(3) if, pursuant to section 64B.44, the society challenges an adjusted risk-based capital report that indicates the event in clause (1), notification by the commissioner to the society that the commissioner has, after a hearing, rejected the society's challenge;

(4) the failure of the society to respond, in a manner satisfactory to the commissioner, to a corrective order, provided the society has not challenged the corrective order under section 64B.44;

(5) if the society has challenged a corrective order under section 64B.44 and the commissioner has, after a hearing, rejected the challenge or modified the corrective order, the failure of the society to respond, in a manner satisfactory to the commissioner, to the corrective order subsequent to rejection or modification by the commissioner;

(6) the failure of the society to submit a risk-based capital plan to the commissioner within the time period in section 64B.42;

(7) notification by the commissioner to the society that:

(i) the risk-based capital plan or revised risk-based capital plan submitted by the society is, in the judgment of the commissioner, unsatisfactory; and

(ii) the society has not challenged the determination under section 64B.44;

(8) if, pursuant to section 64B.44, the society challenges a determination by the commissioner under the notification by the commissioner to the society that the commissioner has, after a hearing, rejected the challenge;

(9) notification by the commissioner to the society that the society has failed to adhere to its risk-based capital plan or revised risk-based capital plan, but only if the failure has a substantial adverse effect on the ability of the society to eliminate the fraternal action level event according to its risk-based capital plan or revised risk-based capital plan and the commissioner has so stated in the notification, provided the society has not challenged the determination under section 64B.44; or

(10) if, pursuant to section 64B.44, the society challenges a determination by the commissioner under clause (9), the notification by the commissioner to the society that the commissioner has, after a hearing, rejected the challenge.

Subd. 2. **Commissioner's duties.** In the event of a fraternal authorized control level event with respect to a society, the commissioner shall:

(1) take the actions required under section 64B.42 regarding a society with respect to which a fraternal action level event has occurred; or

(2) if the commissioner considers it to be in the best interests of the certificate holders of the society, require the society to take one or more of the following actions:

- (i) merge or otherwise consolidate with another willing authorized society;
- (ii) cede any individual risk or risks, in whole or in part, to a willing society or life insurer;
- (iii) suspend the issuance of new business; and
- (iv) discontinue its insurance operations; or

(3) take the actions necessary to cause the society to be placed under regulatory control under chapter 60B. In the event the commissioner takes these actions, the fraternal authorized control level event is considered sufficient grounds for the commissioner to take action under chapter 60B, and the commissioner has the rights, powers, and duties with respect to the society set forth in chapter 60B. In the event the commissioner takes actions under this clause pursuant to an adjusted risk-based capital report, the society is entitled to the protections afforded to societies under section 60B.11 pertaining to summary proceedings.

History: 2010 c 275 art 2 s 5