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To: All Licensed Insurers in the State of South Carolina

From: Ernst N. Csiszar
Director of Insurance 

Subject: Interpretative Bulletin of South Carolina Code of Laws Section 38-5-170

I. Purpose

The purpose of this Bulletin is:

1. To inform all licensed insurers of the Department's interpretation of the words of "any other lawful method" in Section 38-5-170, which permits an insurer to transfer its corporate domicile to South Carolina or any other state "by merger, consolidation, or *any other lawful method*...if the insurer remains duly qualified to transact the business of insurance in South Carolina;" and
2. To explain the application requirements for insurers desiring to re-domesticate to South Carolina.

II. Major Provisions of Section 38-5-170

Pursuant to Section 38-5-170, an insurer licensed to transact business in South Carolina may transfer its domicile to this State or any other state by merger, consolidation, or any other lawful method. Upon such transfer, the certificate of authority, agents' appointments and licenses, rates and other items which the director or his designee may allow, which are in existence at the time of transfer shall continue in effect if the insurer remains duly qualified to transact the business of insurance in South Carolina. Also, the outstanding policies of an insurer transferring its domicile under Section 38-5-170 remain in effect and need not be endorsed as to the new name of the company or its new location unless the director or his designee so instructs. Transferring insurers under Section 38-5-170 must file new policy forms with the director or his designee on or before the effective date of such transfer. However, the transferring insurer may use existing policy forms with appropriate endorsements if allowed by, and under conditions as approved by, the director or his designee. A transferring insurer must notify the director or his designee of

the details of the proposed transfer and must promptly file any resulting amendments to corporate documents filed or required to be filed with the director or his designee.

III. "Other lawful methods" of Transferring Domicile

The Department interprets "any other lawful method" of transferring domiciles to or from this State, as provided in Section 38-5-170, to permit an insurer that is organized under the laws of another state and licensed in South Carolina as a foreign insurer to re-domesticate to this State by complying with all of the requirements of law relative to the organization and licensing of a domestic insurer of the same type. Such transferring insurer will be entitled to like certificates and licenses to transact business in this State, and shall be subject to the authority and jurisdiction of this State. Prior to re-domestication as provided herein, the transferring insurer must obtain the approval of the Insurance Commissioner in its current state of domicile.

Conversely, the Department interprets "any other lawful method" of transferring domicile to or from this State, as provided in Section 38-5-170, to permit an insurer that is organized under the laws of South Carolina, upon the approval of the director or his designee, to transfer its domicile to any other state in which it is admitted to transact the business of insurance. Upon such transfer, an insurer shall cease to be a domestic insurer of this State and shall be admitted to this State if it qualifies as a foreign insurer. The director or his designee shall approve the proposed transfer unless he or she determines the transfer is not in the interest of the policyholders of this State.

This Bulletin shall not prevent an insurer from re-domesticating to or from this State by merger or consolidation as provided in Section 38-5-170.

IV. Application Requirements for Insurers Re-domesticating to South Carolina

The Uniform Certificate of Authority Application (UCAA) process is designed to allow insurers to file copies of the same application for admission in numerous states. South Carolina accepts the UCAA process and as such is designated as a uniform state.

The UCAA includes three applications. The Primary Application is for use by newly formed insurers seeking a Certificate of Authority in their domicile state and by insurers wishing to re-domesticate to a uniform state. The Expansion Application is for use by insurers in good standing in their state of domicile that wish to expand their business into a uniform state. The Corporate Amendments Application is for use by an existing insurer for requesting amendments to its certificate of authority.

Insurers desiring to re-domesticate to South Carolina are encouraged to submit the UCAA Primary Application. However, if an insurer wishes to submit an alternate application, the insurer may request approval from the director or his designee to submit such an application. The request for approval must be written, contain a detailed description of the information to be provided in the alternate application and provide an

explanation as to why the alternate application is preferred to the UCAA Primary Application. At a minimum, the alternate application must demonstrate to the satisfaction of the director or his designee that the re-domesticated insurer will comply with all requirements of law relative to the organization and licensing of a domestic insurer of the same type.

Prior to submitting an application, insurers desiring to re-domesticate to South Carolina must send a written explanation as to how they intend to comply with the requirements of South Carolina Code of Laws Section 38-5-80(k). (See Bulletin 2002-08.)