

§ 58-12-25. Mandatory control level event.

(a) "Mandatory control level event" means any of the following events:

- (1) The filing of a risk-based capital report that indicates that the insurer's total adjusted capital is less than its mandatory control level risk-based capital.
- (2) Notification by the Commissioner to the insurer of an adjusted risk-based capital report that indicates the event in subdivision (1) of this subsection if the insurer does not challenge the adjusted risk-based capital report under G.S. 58-12-30.
- (3) If the insurer challenges an adjusted risk-based capital report that indicates the event in subdivision (1) of this subsection under G.S. 58-12-30, notification by the Commissioner to the insurer that the Commissioner has rejected the challenge.

(b) In the event of a mandatory control level event with respect to a life insurer or a health organization, the Commissioner shall take actions as are necessary to cause the insurer to be placed under regulatory control under Article 30 of this Chapter. The mandatory control level event is sufficient grounds for the Commissioner to take action under Article 30 of this Chapter, and the Commissioner shall have the rights, powers, and duties with respect to the insurer as are set forth in Article 30 of this Chapter. If the Commissioner takes actions pursuant to an adjusted risk-based capital report, the insurer shall be entitled to such protections as are afforded to insurers under the provisions of Article 30 of this Chapter pertaining to summary proceedings. Notwithstanding any of the foregoing, the Commissioner may forego action for up to 90 days after the mandatory control level event if the Commissioner finds there is a reasonable expectation that the mandatory control level event may be eliminated within the 90-day period.

(c) In the event of a mandatory control level event with respect to a property and casualty insurer, the Commissioner shall take actions as are necessary to cause the insurer to be placed under regulatory control under Article 30 of this Chapter, or, in the case of an insurer which is writing no business and which is running off its existing business, may allow the insurer to continue its runoff under the supervision of the Commissioner. In either event, the mandatory control level event is sufficient grounds for the Commissioner to take action under Article 30 of this Chapter, and the Commissioner shall have the rights, powers, and duties with respect to the insurer as are set forth in Article 30 of this Chapter. If the Commissioner takes actions under an adjusted risk-based capital report, the insurer shall be entitled to such protections as are afforded to insurers under the provisions of Article 30 of this Chapter pertaining to summary proceedings. Notwithstanding any of the foregoing, the Commissioner may forego action for up to 90 days after the mandatory control level event if the Commissioner finds there is a reasonable expectation that the mandatory control level event may be eliminated within the 90-day period. (1993 (Reg. Sess., 1994), c. 678, s. 1; 2001-223, ss. 12.7, 12.8.)