

31A-14-201 Application.

- (1)
 - (a) An incorporated person, other than a foreign health maintenance organization, authorized as an insurer in another jurisdiction in the United States may apply under this section for a certificate of authority as an insurer in this state.
 - (b) An alien insurer that is incorporated may apply under this section for a certificate of authority as an insurer in this state.
- (2) An applicant for a certificate of authority under this section shall:
 - (a) use the forms prescribed by the commissioner; and
 - (b) provide the information and documents the commissioner requests, including the following:
 - (i) a copy of the applicant's articles and bylaws;
 - (ii) financial statements for the most recent complete fiscal year, with an explanation of the bases of all valuations and computations, in the detail reasonably required by the commissioner;
 - (iii) a summary, as detailed as the commissioner reasonably requires, of the applicant's financial history for:
 - (A) the preceding 10 years; or
 - (B) the entire period of the applicant's existence if less than 10 years;
 - (iv) for each of the applicant's current or proposed directors and principal officers:
 - (A) the name of the director or principal officer;
 - (B) the address of the director or principal officer; and
 - (C) the occupation for the preceding 10 years of the director or principal officer;
 - (v) for an alien insurer:
 - (A) the name of its United States manager, the manager's addresses and occupations for the preceding 10 years; and
 - (B) if the manager is a corporation, the names, addresses, and occupations of its directors and principal officers, and its most recent detailed financial statements;
 - (vi) a schedule listing:
 - (A) all jurisdictions in which applicant has done or has been authorized to conduct an insurance business during the preceding 10 years;
 - (B) all jurisdictions in which the applicant has applied for authorization to conduct an insurance business during the preceding 10 years, and the dates and results of those applications;
 - (C) all jurisdictions from which the applicant has withdrawn from conducting an insurance business during the preceding 10 years, and the reasons for its withdrawals; and
 - (D) the name of and the circumstances surrounding any officer, director, or controlling shareholder of the corporation ever being subject to a:
 - (I) felony indictment or conviction; or
 - (II) civil, criminal, or administrative action alleging fraud;
 - (vii) a summary description of the applicant's present business operations, including the coverages written and the states and countries in which it does business;
 - (viii) a list of any statements, reports, or other documents that have, within the last five years, been generally transmitted or distributed to or among the insurer's creditors, shareholders, members, subscribers, or policyholders;
 - (ix) if the applicant has been in the insurance business for less than 10 years, a summary of the past and a projection of the anticipated operating results at the end of each year of the first 10 years of operation, based, where known, on actual data and otherwise on reasonable

- assumptions of loss experience, premium and other income, operating expenses, and acquisition costs;
- (x) a statement that organizational and promotional expenses have been paid, and that organizational procedures required by the insurer's domiciliary authority are complete;
 - (xi) a statement from the domiciliary regulatory authority and the state of entry into the United States, if any, that so far as known, the applicant is sound and there are no legitimate objections to its proposed operations in this state;
 - (xii) the plan for conducting an insurance business in this state, including:
 - (A) the geographical area where business is to be conducted;
 - (B) the types of insurance to be written;
 - (C) the proposed general marketing methods;
 - (D) the proposed method for establishing premium rates; and
 - (E) copies of the policy and application forms to be used in this state;
 - (xiii) any other information the commissioner reasonably requires;
 - (xiv) authorization to the commissioner to make inquiry of any person about the applicant, its manager under a management contract, its attorney in fact, its general agents, and any of the officers, directors, or shareholders of any of them designated by the commissioner; and
 - (xv) written agreement by the applicant and any other designated persons that in the absence of actual malice, no communication made in response to any inquiry under Subsection (2) (b)(xiv) will subject the person making it to an action for damages for defamation brought by the applicant, the designated person, or a legal representative of either.
- (3) No action for damages for defamation lies even in the absence of this agreement.
- (4) Notwithstanding Subsection (2), the commissioner may exempt an applicant for a certificate of authority from providing the information described in Subsection (2) if the commissioner finds that the information will not be helpful in making the decision of whether to issue a certificate of authority.

Amended by Chapter 116, 2001 General Session