

1 ENGROSSED HOUSE
2 BILL NO. 1497

By: Tedford of the House

and

Reinhardt of the Senate

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7 An Act relating to insurance; amending 36 O.S. 2021,
8 Section 1631, which relates to definitions; providing
9 definitions; amending 36 O.S. 2021, Section 1635,
10 which relates to registration of insurers; clarifying
11 applicability of statute; requiring certain report;
12 specifying report details; requiring Liquidity Stress
13 Test; amending 36 O.S. 2021, Section 1640, which
14 relates to confidentiality of documents and other
15 information; updating citations; clarifying certain
16 documents, materials, or other information is
17 proprietary and contains trade secrets; directing
18 Commissioner to maintain the confidentiality of
19 certain information; and providing an effective date.

20 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

21 SECTION 1. AMENDATORY 36 O.S. 2021, Section 1631, is
22 amended to read as follows:

23 Section 1631. As used in this act, the following terms shall
24 have these meanings unless the context shall otherwise require:

1. "Affiliate of" or person "affiliated with" a specific person
means a person that directly, or indirectly through one or more
intermediaries, controls, or is controlled by, or is under common
control with, the person specified;

1 2. "Commissioner" means the Insurance Commissioner of the State
2 of Oklahoma, the Commissioner's deputies, or the Insurance
3 Department, as appropriate;

4 3. "Control" includes the terms "controlling", "controlled by"
5 and "under common control with" and means the possession, direct or
6 indirect, of the power to direct or cause the direction of the
7 management and policies of a person, whether through the ownership
8 of voting securities, by contract other than a commercial contract
9 for goods or nonmanagement services, or otherwise, unless the power
10 is the result of an official position or corporate office held by
11 the person. Control shall be presumed to exist if any person,
12 directly or indirectly, owns, controls, holds with the power to
13 vote, or holds proxies representing, ten percent (10%) or more of
14 the voting securities of any other person. This presumption may be
15 rebutted by a showing made in the manner provided by subsection K of
16 Section ~~5~~ 1635 of this ~~act~~ title that control does not exist in
17 fact. The Commissioner may determine, after furnishing all persons
18 in interest notice and opportunity to be heard and making specific
19 findings of fact to support the determination that control exists in
20 fact, notwithstanding the absence of a presumption to that effect;

21 4. "Group-wide supervisor" means the regulatory official
22 authorized to engage in conducting and coordinating group-wide
23 supervision activities who is determined or acknowledged by the
24 Commissioner under Section ~~9~~ 1639 of this ~~act~~ title to have

1 sufficient significant contacts with the internationally active
2 insurance group;

3 5. "Group Capital Calculation Instructions" means the group
4 capital calculation instructions as adopted by the NAIC and as
5 amended by the NAIC from time to time in accordance with the
6 procedures adopted by the NAIC;

7 6. "Insurance holding company system" means an insurance
8 holding company system consisting of two or more affiliated persons,
9 one or more of which is an insurer;

10 ~~6.~~ 7. "Insurer" has the same meaning as set forth in Section
11 103 of Title 36 of the Oklahoma Statutes, except that it shall not
12 include agencies, authorities or instrumentalities of the United
13 States, its possessions and territories, the Commonwealth of Puerto
14 Rico, the District of Columbia, or a state or political subdivision
15 of a state;

16 ~~7.~~ 8. "Internationally active insurance group" means an
17 insurance holding company system that:

18 a. includes an insurer registered under Section ~~5~~ 1635 of
19 this ~~act~~ title, and

20 b. meets the following criteria:

21 (1) premiums written in at least three countries,

22 (2) the percentage of gross premiums written outside
23 the United States is at least ten percent (10%)

24

1 of the insurance holding company system's total
2 gross written premiums, and

3 (3) based on a three-year rolling average, the total
4 assets of the insurance holding company system
5 are at least Fifty Billion Dollars
6 (\$50,000,000,000.00) or the total gross written
7 premiums of the insurance holding company system
8 are at least Ten Billion Dollars
9 (\$10,000,000,000.00);

10 ~~8.~~ 9. "Enterprise risk" means any activity, circumstance, event
11 or series of events involving one or more affiliates of an insurer
12 that, if not remedied promptly, is likely to have a material adverse
13 effect upon the financial condition or liquidity of the insurer or
14 its insurance holding company system as a whole, including, but not
15 limited to, anything that would cause the insurer's risk-based
16 capital to fall into company action level as set forth in the Risk-
17 based Capital for Insurers Act provided in Sections 1521 through
18 1533 of Title 36 of the Oklahoma Statutes, or would cause the insurer
19 to be in hazardous financial condition pursuant to rules promulgated
20 by the Insurance Department;

21 ~~9.~~ 10. "NAIC" means the National Association of Insurance
22 Commissioners;

23 11. "NAIC Liquidity Stress Test Framework" means a separate
24 NAIC publication which includes a history of the NAIC's development

1 of regulatory Liquidity Stress Testing, the Scope Criteria
2 applicable for a specific data year, and the Liquidity Stress Test
3 instructions and reporting templates for a specific data year, such
4 Scope Criteria, instructions and reporting template being as adopted
5 by the NAIC and as amended by the NAIC from time to time in
6 accordance with the procedures adopted by the NAIC;

7 12. "Person" means an individual, a corporation, a limited
8 liability company, a partnership, an association, a joint stock
9 company, a trust, an unincorporated organization, any similar entity
10 or any combination of the foregoing acting in concert, but shall not
11 include any joint venture partnership exclusively engaged in owning,
12 managing, leasing or developing real or tangible personal property;

13 ~~10.~~ 13. "Scope Criteria" means, as detailed in the NAIC
14 Liquidity Stress Framework, the designated exposure bases along with
15 minimum magnitudes thereof for the specified data year, used to
16 establish a preliminary list of insurers considered scoped into the
17 NAIC Liquidity Stress Test Framework for that data year;

18 14. "Securityholder" of a specified person means one who owns
19 any security of such person, including common stock, preferred
20 stock, debt obligations and any other security convertible into or
21 evidencing the right to acquire any of the foregoing;

22 ~~11.~~ 15. "Subsidiary" of a specified person means an affiliate
23 controlled by such person directly or indirectly through one or more
24 intermediaries; and

1 ~~12.~~ 16. "Voting security" means any security convertible into
2 or evidencing a right to acquire a voting security.

3 SECTION 2. AMENDATORY 36 O.S. 2021, Section 1635, is
4 amended to read as follows:

5 Section 1635. A. Every insurer which is authorized to do
6 business in this state and which is a member of an insurance holding
7 company system shall register with the Insurance Commissioner,
8 except a foreign insurer subject to registration requirements and
9 standards adopted by statute or regulation in the jurisdiction of
10 its domicile which are substantially similar to those contained in:

11 1. This section;

12 2. Paragraph 1 of subsection A of Section ~~6~~ 1636 of this ~~act~~
13 title and subsections B and D of Section ~~6~~ 1636 of this ~~act~~ title;
14 and

15 3. Either paragraph 2 of subsection A of Section ~~6~~ 1636 of this
16 ~~act~~ title or a provision such as the following: Each registered
17 insurer shall keep current the information required to be disclosed
18 in its registration statement by reporting all material changes or
19 additions within fifteen (15) days after the end of the month in
20 which it learns of each change or addition; provided, however, that
21 subject to subsection B of Section ~~6~~ 1636 of this ~~act~~ title, each
22 registered insurer shall so report all dividends and other
23 distributions to shareholders within two (2) business days following
24 the declaration thereof.

1 Any insurer which is subject to registration under this section
2 shall register within fifteen (15) days after it becomes subject to
3 registration, and annually thereafter by May 1 of each year for the
4 previous calendar year, unless the Commissioner for good cause shown
5 extends the time for registration, and then within the extended
6 time. The Commissioner may require any insurer authorized to do
7 business in the state which is a member of an insurance holding
8 company system, and which is not subject to registration under this
9 section, to furnish a copy of the registration statement, the
10 summary specified in subsection C of this section or other
11 information filed by the insurance company with the insurance
12 regulatory authority of its domiciliary jurisdiction.

13 B. Every insurer subject to registration shall file the
14 registration statement with the Commissioner on a form and in a
15 format prescribed by the National Association of Insurance
16 Commissioners (NAIC), which shall contain the following current
17 information:

18 1. The capital structure, general financial condition,
19 ownership and management of the insurer and any person controlling
20 the insurer;

21 2. The identity and relationship of every member of the
22 insurance holding company system;

23

24

1 3. The following agreements in force, and transactions
2 currently outstanding or which have occurred during the last
3 calendar year between the insurer and its affiliates:

- 4 a. loans, other investments, or purchases, sales or
5 exchanges of securities of the affiliates by the
6 insurer or of the insurer by its affiliates,
- 7 b. purchases, sales or exchange of assets,
- 8 c. transactions not in the ordinary course of business,
- 9 d. guarantees or undertakings for the benefit of an
10 affiliate which result in an actual contingent
11 exposure of the insurer's assets to liability, other
12 than insurance contracts entered into in the ordinary
13 course of the insurer's business,
- 14 e. all management agreements, service contracts and all
15 cost-sharing arrangements,
- 16 f. reinsurance agreements,
- 17 g. dividends and other distributions to shareholders, and
18 h. consolidated tax allocation agreements;

19 4. Any pledge of the insurer's stock, including stock of any
20 subsidiary or controlling affiliate, for a loan made to any member
21 of the insurance holding company system;

22 5. If requested by the Commissioner, the insurer shall include
23 financial statements of or within an insurance holding company
24 system, including all affiliates. Financial statements may include

1 but are not limited to annual audited financial statements filed
2 with the U.S. Securities and Exchange Commission (SEC) pursuant to
3 the Securities Act of 1933, as amended, or the Securities Exchange
4 Act of 1934, as amended. An insurer required to file financial
5 statements pursuant to this paragraph may satisfy the request by
6 providing the Commissioner with the most recently filed parent
7 corporation financial statements that have been filed with the SEC;

8 6. Other matters concerning transactions between registered
9 insurers and any affiliates as may be included from time to time in
10 any registration forms adopted or approved by the Commissioner;

11 7. Statements that the insurer's board of directors oversees
12 corporate governance and internal controls and that the insurer's
13 officers or senior management have approved, implemented and
14 continue to maintain and monitor corporate governance and internal
15 control procedures; and

16 8. Any other information required by the Commissioner by rule
17 or regulation.

18 C. All registration statements shall contain a summary
19 outlining all items in the current registration statement
20 representing changes from the prior registration statement.

21 D. No information need be disclosed on the registration
22 statement filed pursuant to subsection B of this section if the
23 information is not material for the purposes of this section.

24 Unless the Commissioner by rule, regulation or order provides

1 otherwise, sales, purchases, exchanges, loans or extensions of
2 credit, investments, or guarantees involving one-half of one percent
3 (.5%) or less of an insurer's admitted assets as of December 31 next
4 preceding shall not be deemed material for purposes of this section.
5 The definition of materiality provided in this subsection shall not
6 apply for purposes of the Group Capital Calculation Instructions or
7 the Liquidity Stress Test Framework.

8 E. Subject to subsection B of Section ~~6~~ 1636 of this ~~act~~ title,
9 each registered insurer shall report to the Commissioner all
10 dividends and other distributions to shareholders within fifteen
11 (15) business days following the declaration thereof.

12 F. Any person within an insurance holding company system
13 subject to registration shall be required to provide complete and
14 accurate information to an insurer, where the information is
15 reasonably necessary to enable the insurer to comply with the
16 provisions of this act.

17 G. The Commissioner shall terminate the registration of any
18 insurer which demonstrates that it no longer is a member of an
19 insurance holding company system.

20 H. The Commissioner may require or allow two or more affiliated
21 insurers subject to registration to file a consolidated registration
22 statement.

23 I. The Commissioner may allow an insurer which is authorized to
24 do business in this state and which is part of an insurance holding

1 company system to register on behalf of any affiliated insurer which
2 is required to register under subsection A of this section and to
3 file all information and material required to be filed under this
4 section.

5 J. The provisions of this section shall not apply to any
6 insurer, information or transaction if and to the extent that the
7 Commissioner by rule, regulation or order shall exempt the same from
8 the provisions of this section.

9 K. Any person may file with the Commissioner a disclaimer of
10 affiliation with any authorized insurer or a disclaimer may be filed
11 by the insurer or any member of an insurance holding company system.
12 The disclaimer shall fully disclose all material relationships and
13 bases for affiliation between the person and the insurer as well as
14 the basis for disclaiming the affiliation. A disclaimer of
15 affiliation shall be deemed to have been granted unless the
16 Commissioner, within thirty (30) days following receipt of a
17 complete disclaimer, notifies the filing party the disclaimer is
18 disallowed. In the event of disallowance, the disclaiming party may
19 request an administrative hearing, which shall be granted. The
20 disclaiming party shall be relieved of its duty to register under
21 this section if approval of the disclaimer has been granted by the
22 Commissioner, or if the disclaimer is deemed to have been approved.

23 L. 1. The ultimate controlling person of every insurer subject
24 to registration shall also file an annual enterprise risk report.

1 The report shall, to the best of the ultimate controlling person's
2 knowledge and belief, identify the material risks within the
3 insurance holding company system that could pose enterprise risk to
4 the insurer. The report shall be filed with the lead state
5 Commissioner of the insurance holding company system as determined
6 by the procedures within the Financial Analysis Handbook adopted by
7 the National Association of Insurance Commissioners.

8 2. Except as provided below, the ultimate controlling person of
9 every insurer subject to registration shall concurrently file with
10 the registration an annual group capital calculation as directed by
11 the lead state Commissioner. The report shall be completed in
12 accordance with the NAIC Group Capital Calculation Instructions,
13 which may permit the lead state Commissioner to allow a controlling
14 person that is not the ultimate controlling person to file the group
15 capital calculation. The report shall be filed with the lead state
16 Commissioner of the insurance holding company system as determined
17 by the commissioner in accordance with the procedures within the
18 Financial Analysis Handbook adopted by the NAIC. Insurance holding
19 company systems described below are exempt from filing the group
20 capital calculation:

21 a. an insurance holding company system that has only one
22 insurer within its holding company structure, that
23 only writes business in its domestic state, and
24 assumes no business from any other insurer,

1 b. an insurance holding company system that is required
2 to perform a group capital calculation specified by
3 the United States Federal Reserve Board. The lead
4 state Commissioner shall request the calculation from
5 the Federal Reserve Board under the terms of
6 information sharing agreements in effect. If the
7 Federal Reserve Board cannot share the calculation
8 with the lead state Commissioner, the insurance
9 holding company system is not exempt from the group
10 capital calculation filing,

11 c. an insurance holding company system whose non-United-
12 States group-wide supervisor is located within a
13 reciprocal jurisdiction as described in Section 5122
14 of Title 36 of the Oklahoma Statutes that recognizes
15 the United States state regulatory approach to group
16 supervision and group capital,

17 d. an insurance holding company system:
18 (1) that provides information to the lead state that
19 meets the requirements for accreditation under
20 the NAIC financial standards and accreditation
21 program, either directly or indirectly through
22 the group-wide supervisor, who has determined
23 such information is satisfactory to allow the
24 lead state to comply with the NAIC group

1 supervision approach, as detailed in the NAIC
2 Financial Analysis Handbook, and

3 (2) whose non-United-States group-wide supervisor
4 that is not in a reciprocal jurisdiction
5 recognizes and accepts, as specified by the
6 commissioner in regulation, the group capital
7 calculation as the world-wide group capital
8 assessment for United States insurance groups who
9 operate in that jurisdiction,

10 e. notwithstanding the provisions of subparagraphs c and
11 d of paragraph 2 of subsection L of this section, a
12 lead state Commissioner shall require the group
13 capital calculation for U.S. operations of any non-
14 United-States-based insurance holding company system
15 where, after any necessary consultation with other
16 supervisors or officials, it is deemed appropriate by
17 the lead state Commissioner for prudential oversight
18 and solvency monitoring purposes or for ensuring the
19 competitiveness of the insurance marketplace,

20 f. notwithstanding the exemptions from filing the group
21 capital calculation stated in subparagraphs a through
22 d of paragraph 2 of subsection L of this section, the
23 lead state Commissioner has the discretion to exempt
24 the ultimate controlling person from filing the annual

1 group capital calculation or to accept a limited group
2 capital filing or report in accordance with criteria
3 as specified by the commissioner in regulation, and
4 g. if the lead state Commissioner determines that an
5 insurance holding company system no longer meets one
6 or more of the requirements for an exemption from
7 filing the group capital calculation under this
8 section, the insurance holding company system shall
9 file the group capital calculation at the next annual
10 filing date unless given an extension by the lead
11 state Commissioner based on reasonable grounds shown;

12 3. The ultimate controlling person of every insurer subject to
13 registration and also scoped into the NAIC Liquidity Stress Test
14 Framework shall file the results of a specific year's Liquidity
15 Stress Test. The filing shall be made to the lead state insurance
16 commissioner of the insurance holding company system as determined
17 by the procedures within the Financial Analysis Handbook adopted by
18 the NAIC:

19 a. the NAIC Liquidity Stress Test Framework includes
20 Scope Criteria applicable to a specific data year.
21 These Scope Criteria are reviewed at least annually by
22 the Financial Stability Task Force or its successor.
23 Any change to the NAIC Liquidity Stress Test Framework
24 or to the data year for which the Scope Criteria are

1 to be measured shall be effective on January 1 of the
2 year following the calendar year when such changes are
3 adopted. Insurers meeting at least one threshold of
4 the Scope Criteria are considered scoped into the NAIC
5 Liquidity Stress Test Framework for the specified data
6 year unless the lead state insurance commissioner, in
7 consultation with the NAIC Financial Stability Task
8 Force or its successor, determines the insurer should
9 not be scoped into the Framework for that data year.
10 Similarly, insurers that do not trigger at least one
11 threshold of the Scope Criteria are considered scoped
12 out of the NAIC Liquidity Stress Test Framework for
13 the specified data year, unless the lead state
14 insurance commissioner, in consultation with the NAIC
15 Financial Stability Task Force or its successor,
16 determines the insurer should be scoped into the
17 Framework for that data year. Regulators wish to
18 avoid having insurers scoped in and out of the NAIC
19 Liquidity Stress Test Framework on a frequent basis.
20 The lead state insurance commissioner, in consultation
21 with the Financial Stability Task Force or its
22 successor, will assess this concern as part of the
23 determination for an insurer, and
24

1 b. the performance of, and filing of the results from, a
2 specific year's Liquidity Stress Test shall comply
3 with the NAIC Liquidity Stress Test Framework's
4 instructions and reporting templates for that year and
5 any lead state insurance commissioner determinations,
6 in consultation with the Financial Stability Task
7 Force or its successor, provided within the Framework.

8 M. The failure to file a registration statement or any summary
9 of the registration statement or enterprise risk filing required by
10 this section within the time specified for filing shall be a
11 violation of this section.

12 SECTION 3. AMENDATORY 36 O.S. 2021, Section 1640, is
13 amended to read as follows:

14 Section 1640. A. Documents, materials or other information in
15 the possession or control of the Insurance Department that are
16 obtained by or disclosed to the Commissioner or any other person in
17 the course of an examination or investigation made pursuant to
18 Section 7 1637 of this ~~act~~ title and all information reported or
19 provided to the Insurance Department pursuant to paragraphs 12 and
20 13 of subsection B of Section 3 1633 of this ~~act~~ title, Section 5
21 1635 of this ~~act~~ title, Section 6 1636 of this ~~act~~ title, and
22 Section 11 1639 of this ~~act~~ title are recognized by this state as
23 being proprietary and containing trade secrets and shall be
24 confidential by law and privileged, shall not be subject to open

1 records, or freedom of information, shall not be subject to
2 subpoena, and shall not be subject to discovery or admissible in
3 evidence in any private civil action. However, the Commissioner is
4 authorized to use the documents, materials or other information in
5 the furtherance of any regulatory or legal action brought as a part
6 of the Commissioner's official duties. The Commissioner shall not
7 otherwise make the documents, materials or other information public
8 without the prior written consent of the insurer to which it
9 pertains unless the Commissioner, after giving the insurer and its
10 affiliates who would be affected thereby notice and opportunity to
11 be heard, determines that the interest of policyholders,
12 shareholders or the public will be served by the publication
13 thereof, in which event the Commissioner may publish all or any part
14 in such manner as may be deemed appropriate.

15 1. For purposes of the information reported and provided to the
16 Department of Insurance pursuant to paragraph 2 of subsection L of
17 Section 1635 of this title, the Commissioner shall maintain the
18 confidentiality of the group capital calculation and group capital
19 ratio produced within the calculation and any group capital
20 information received from an insurance holding company supervised by
21 the Federal Reserve Board or any United States group wide
22 supervisor; and

23 2. For purposes of the information reported and provided to the
24 Department of Insurance pursuant to paragraph 3 of subsection L of

1 Section 1635 of this title, the Commissioner shall maintain the
2 confidentiality of the Liquidity Stress Test results and supporting
3 disclosures and any Liquidity Stress Test information received from
4 an insurance holding company supervised by the Federal Reserve Board
5 and non-United-States group wide supervisors.

6 B. Neither the Commissioner nor any person who received
7 documents, materials or other information while acting under the
8 authority of the Commissioner or with whom such documents, materials
9 or other information are shared pursuant to this act shall be
10 permitted or required to testify in any private civil action
11 concerning any confidential documents, materials or information
12 subject to subsection A of this section.

13 C. In order to assist in the performance of the Commissioner's
14 duties, the Commissioner:

15 1. May share documents, materials or other information,
16 including the confidential and privileged documents, materials or
17 information subject to subsection A of this section, including
18 proprietary and trade secret documents and materials, with other
19 state, federal and international regulatory agencies, with the
20 National Association of Insurance Commissioners (NAIC) and its
21 affiliates and subsidiaries, with any third-party consultants
22 designated by the Commissioner, and with state, federal and
23 international law enforcement authorities, including members of any
24 supervisory college described in Section § 1638 of this ~~act~~ title,

1 provided that the recipient agrees in writing to maintain the
2 confidentiality and privileged status of the document, material or
3 other information, and has verified in writing the legal authority
4 to maintain confidentiality;

5 2. Notwithstanding paragraph 1 of this subsection, may only
6 share confidential and privileged documents, material or information
7 reported pursuant to paragraph 1 of subsection L of Section 5 1635
8 of this ~~act~~ title with Commissioners of states having statutes or
9 regulations substantially similar to subsection A of this section
10 and who have agreed in writing not to disclose such information;

11 3. May receive documents, materials or information, including
12 otherwise confidential and privileged documents, materials or
13 information, including proprietary and trade-secret information,
14 from the NAIC and its affiliates and subsidiaries and from
15 regulatory and law enforcement officials of other foreign or
16 domestic jurisdictions, and shall maintain as confidential or
17 privileged any document, material or information received with
18 notice or the understanding that it is confidential or privileged
19 under the laws of the jurisdiction that is the source of the
20 document, material or information; and

21 4. Shall enter into written agreements with the NAIC and any
22 third-party consultant designated by the Commissioner governing
23 sharing and use of information provided pursuant to this act
24 consistent with this subsection that shall:

- 1 a. specify procedures and protocols regarding the
2 confidentiality and security of information shared
3 with the NAIC ~~and its affiliates and subsidiaries~~ or a
4 third-party consultant designated by the Commissioner
5 pursuant to this act, including procedures and
6 protocols for sharing by the NAIC with other state,
7 federal or international regulators. The agreement
8 shall provide that the recipient agrees in writing to
9 maintain the confidentiality and privileged status of
10 the documents, materials or other information and has
11 verified in writing the legal authority to maintain
12 such confidentiality,
- 13 b. specify that ownership of information shared with the
14 NAIC ~~and its affiliates and subsidiaries~~ or a third-
15 party consultant pursuant to this act remains with the
16 Commissioner and the NAIC's or a third-party
17 consultant's, as designated by the Commissioner, use
18 of the information is subject to the direction of the
19 Commissioner,
- 20 c. excluding documents, material or information reported
21 pursuant to paragraph 3 of subsection L of Section
22 1635 of this title, prohibit the NAIC or third-party
23 consultant designated by the Commissioner from storing
24 the information shared pursuant to this act in a

1 permanent database after the underlying analysis is
2 completed,

3 d. require prompt notice to be given to an insurer whose
4 confidential information in the possession of the NAIC
5 or a third-party consultant designated by the
6 Commissioner pursuant to this act is subject to a
7 request or subpoena to the NAIC or a third-party
8 consultant designated by the Commissioner for
9 disclosure or production, and

10 ~~d.~~

11 e. require the NAIC ~~and its affiliates and subsidiaries~~
12 or a third-party consultant designated by the
13 Commissioner to consent to intervention by an insurer
14 in any judicial or administrative action in which the
15 NAIC ~~and its affiliates and subsidiaries~~ or a third-
16 party consultant designated by the Commissioner may be
17 required to disclose confidential information about
18 the insurer shared with the NAIC ~~and its affiliates~~
19 ~~and subsidiaries~~ or a third-party consultant
20 designated by the Commissioner pursuant to this act.

21 f. for documents, material or information reported
22 pursuant to paragraph 3 of subsection L of Section
23 1635 of this title, in the case of an agreement
24 involving a third-party consultant, provide for

1 notification of the identity of the consultant to the
2 applicable insurers.

3 D. The sharing of information by the Commissioner pursuant to
4 this act shall not constitute a delegation of regulatory authority
5 or rulemaking, and the Commissioner is solely responsible for the
6 administration, execution and enforcement of the provisions of this
7 act.

8 E. No waiver of any applicable privilege or claim of
9 confidentiality in the documents, materials or information shall
10 occur as a result of disclosure to the Commissioner under this
11 section or as a result of sharing as authorized in subsection C of
12 this section.

13 F. Documents, materials or other information in the possession
14 or control of the NAIC or a third-party consultant designated by the
15 Commissioner pursuant to this act shall be confidential by law and
16 privileged, shall not be subject to open records or freedom of
17 information, shall not be subject to subpoena, and shall not be
18 subject to discovery or admissible in evidence in any private civil
19 action.

20 G. The group capital calculation and resulting group capital
21 ratio required under paragraph 2 of subsection L of Section 1635 of
22 this title and the Liquidity Stress Test along with its results and
23 supporting disclosures required under paragraph 3 of subsection L of
24 Section 1635 of this title are regulatory tools for assessing group

1 risks and capital adequacy and group liquidity risks, respectively,
2 and are not intended as a means to rank insurers or insurance
3 holding company systems generally. Therefore, except as otherwise
4 may be required under the provisions of this title, the making,
5 publishing, disseminating, circulating or placing before the public,
6 or causing directly or indirectly to be made, published,
7 disseminated, circulated or placed before the public in a newspaper,
8 magazine or other publication, or in the form of a notice, circular,
9 pamphlet, letter or poster, or over any radio or television station
10 or any electronic means of communication available to the public, or
11 in any other way as an advertisement, announcement or statement
12 containing a representation or statement with regard to the group
13 capital calculation, group capital ratio, the Liquidity Stress Test
14 results, or supporting disclosures for the Liquidity Stress Test of
15 any insurer or any insurer group, or of any component derived in the
16 calculation by an insurer, broker, or other person engaged in any
17 manner in the insurance business would be misleading and is
18 therefore prohibited; provided however, that if any materially false
19 statement with respect to the group capital calculation, resulting
20 group capital ratio, an inappropriate comparison of any amount to an
21 insurer's or insurance group's group capital calculation or
22 resulting group capital ratio, Liquidity Stress Test result,
23 supporting disclosures for the Liquidity Stress Test, or an
24 inappropriate comparison of any amount to an insurer's or insurance

1 group's Liquidity Stress Test result or supporting disclosures is
2 published in any written publication and the insurer is able to
3 demonstrate to the Commissioner with substantial proof the falsity
4 of such statement or the inappropriateness, as the case may be, then
5 the insurer may publish announcements in a written publication if
6 the sole purpose of the announcement is to rebut the materially
7 false statement.

8 SECTION 4. This act shall become effective November 1, 2025.

9 Passed the House of Representatives the 24th day of March, 2025.

10
11 _____
12 Presiding Officer of the House
13 of Representatives

14 Passed the Senate the ____ day of _____, 2025.

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16 _____
17 Presiding Officer of the Senate