

1 ENGROSSED SENATE AMENDMENT
TO

2 ENGROSSED HOUSE
3 BILL NO. 2021

By: Coody (Jeff) of the House

4 and

5 Stanislawski of the Senate

6
7 An Act relating to insurance; authorizing the
8 Insurance Commissioner to participate in a
9 supervisory college; providing powers of the
10 Commissioner with respect to supervisory colleges;
11 requiring registered insurers to pay certain
12 expenses; authorizing participation in a supervisory
college with certain other regulators; authorizing
Commissioner to enter into certain agreements;
providing that certain authority shall not be
delegated; providing for codification; and providing
an effective date.

13

14 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
15 entire bill and insert

16 "An Act relating to insurance; authorizing the
17 Insurance Commissioner to participate in a
18 supervisory college; providing powers of the
19 Commissioner with respect to supervisory colleges;
20 requiring registered insurers to pay certain
21 expenses; authorizing participation in a supervisory
22 college with certain other regulators; authorizing
23 Commissioner to enter into certain agreements;
24 providing that certain authority shall not be
delegated; amending Section 1, Chapter 269, O.S.L.
2013 (36 O.S. Supp. 2014, Section 1657.1), which
relates to confidentiality; modifying information
made confidential by law; modifying information
subject to discovery or admissible in evidence in
certain actions; modifying authority of Commissioner;
changing certain references; providing for
codification; and providing an effective date.

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

3 SECTION 1. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1656.1 of Title 36, unless there
5 is created a duplication in numbering, reads as follows:

6 A. With respect to any insurer registered under Section 1654 of
7 Title 36 of the Oklahoma Statutes, and in accordance with subsection
8 C of this section, the Insurance Commissioner shall also be
9 authorized to participate in a supervisory college for any domestic
10 insurer that is part of an insurance holding company system with
11 international operations in order to determine compliance by the
12 insurer with Article 16A of Title 36 of the Oklahoma Statutes. The
13 powers of the Commissioner with respect to supervisory colleges
14 include, but are not limited to, the following:

15 1. Initiating the establishment of a supervisory college;

16 2. Clarifying the membership and participation of other
17 supervisors in the supervisory college;

18 3. Clarifying the functions of the supervisory college and the
19 role of other regulators, including the establishment of a group-
20 wide supervisor;

21 4. Coordinating the ongoing activities of the supervisory
22 college, including planning meetings, supervisory activities, and
23 processes for information sharing; and

24 5. Establishing a crisis management plan.

1 B. Each registered insurer subject to this section shall be
2 liable for and shall pay the reasonable expenses of the
3 Commissioner's participation in a supervisory college in accordance
4 with subsection C of this section, including reasonable travel
5 expenses. For purposes of this section, a supervisory college may
6 be convened as either a temporary or permanent forum for
7 communication and cooperation between the regulators charged with
8 the supervision of the insurer or its affiliates, and the
9 Commissioner may establish a regular assessment to the insurer for
10 the payment of these expenses.

11 C. In order to assess the business strategy, financial
12 position, legal and regulatory position, risk exposure, risk
13 management and governance processes, and as part of the examination
14 of individual insurers in accordance with Section 1656 of Title 36
15 of the Oklahoma Statutes, the Commissioner may participate in a
16 supervisory college with other regulators charged with supervision
17 of the insurer or its affiliates, including other state, federal,
18 and international regulatory agencies. The Commissioner may enter
19 into agreements in accordance with Section 1657.1 of Title 36 of the
20 Oklahoma Statutes providing the basis for cooperation between the
21 Commissioner and the other regulatory agencies, and the activities
22 of the supervisory college. Nothing in this section shall delegate
23 to the supervisory college the authority of the Commissioner to
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1 regulate or supervise the insurer or its affiliates within its
2 jurisdiction.

3 SECTION 2. AMENDATORY Section 1, Chapter 269, O.S.L.
4 2013 (36 O.S. Supp. 2014, Section 1657.1), is amended to read as
5 follows:

6 Section 1657.1. A. Documents, materials or other information
7 in the possession or control of the Insurance Department that are
8 obtained by or disclosed to the Commissioner or any other person ~~in~~
9 ~~the course of an examination or investigation made pursuant to~~
10 ~~Section 1656 of Title 36 of the Oklahoma Statutes and all~~
11 ~~information reported pursuant to subsection B of Section 1653 of~~
12 ~~Title 36 of the Oklahoma Statutes, and Sections 1654 and 1655 of~~
13 ~~Title 36 of the Oklahoma Statutes,~~ pursuant to this article shall be
14 confidential by law and privileged, shall not be subject to open
15 records or freedom of information requests, shall not be subject to
16 subpoena, and shall not be subject to discovery or admissible in
17 evidence in any private civil action ~~if obtained from the~~
18 ~~Commissioner, a state, federal, or international regulatory agency,~~
19 ~~or the National Association of Insurance Commissioners, or any~~
20 ~~person or entity affiliated therewith.~~ However, the Commissioner is
21 authorized to use the documents, materials or other information in
22 the furtherance of any regulatory or legal action brought as part of
23 the official duties of the Commissioner. The Commissioner shall not
24 otherwise make the documents, materials or other information public

1 without the prior written consent of the insurer to which it
2 pertains unless the Commissioner, after giving the insurer and its
3 affiliates who would be affected thereby notice and opportunity to
4 be heard, determines that the interest of the policyholders,
5 shareholders or the public will be served by the publication
6 thereof, in which event the Commissioner may publish all or any part
7 in such manner as may be deemed appropriate.

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

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

17 1. May share documents, materials or other information,
18 including the confidential and privileged documents, materials or
19 information subject to subsection A of this section, with other
20 state, federal and international regulatory agencies, including any
21 members of any supervisory college described in Section 1 of this
22 act, with the NAIC and its affiliates and subsidiaries, and with
23 state, federal and international law enforcement authorities,
24 provided that the recipient agrees in writing to maintain the

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

4 2. Notwithstanding paragraph 1 of this subsection, the
5 Commissioner may only share confidential and privileged documents,
6 material or other information reported pursuant to ~~Section 1654 of~~
7 ~~Title 36 of the Oklahoma Statutes with commissioners of states~~ this
8 article with insurance regulators in jurisdictions having statutes
9 or 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 other information,
12 including otherwise confidential and privileged documents, materials
13 or other information from the NAIC and its affiliates and
14 subsidiaries and from regulatory and law enforcement officials of
15 other foreign or domestic jurisdictions, and shall maintain as
16 confidential or privileged any document, material or other
17 information received with notice or the understanding that it is
18 confidential or privileged under the laws of the jurisdiction that
19 is the source of the document, material or other information; and

20 4. Shall enter into written agreements with the NAIC governing
21 sharing and use of information provided pursuant to this section and
22 consistent with this subsection that shall:

23 a. specify procedures and protocols regarding the
24 confidentiality and security of information shared

1 with the NAIC and its affiliates and subsidiaries
2 pursuant to this act, including procedures and
3 protocols for sharing by the NAIC with other state,
4 federal or international regulators,

5 b. specify that ownership of information shared with the
6 NAIC and its affiliates and subsidiaries pursuant to
7 this section remains with the Commissioner and the
8 NAIC's use of the information is subject to the
9 direction of the Commissioner,

10 c. require prompt notice to be given to an insurer whose
11 confidential information in the possession of the NAIC
12 pursuant to this section is subject to a request or
13 subpoena to the NAIC for disclosure or production, and

14 d. require the NAIC and its affiliates and subsidiaries
15 to consent to intervention by an insurer in any
16 judicial or administrative action in which the NAIC
17 and its affiliates and subsidiaries may be required to
18 disclose confidential information about the insurer
19 shared with the NAIC and its affiliates and
20 subsidiaries pursuant to this ~~section~~ article.

21 D. The sharing of information by the Commissioner pursuant to
22 this ~~section~~ article shall not constitute a delegation of regulatory
23 authority or rulemaking, and the Commissioner is solely responsible
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1 for the administration, execution and enforcement of the provisions
2 of this ~~section~~ article.

3 E. No waiver of any applicable privilege or claim of
4 confidentiality in the documents, materials or other information
5 shall occur as a result of disclosure to the Commissioner under this
6 section or as a result of sharing as authorized in subsection C of
7 this section.

8 F. Documents, materials or other information in the possession
9 or control of the NAIC pursuant to this ~~section~~ article shall be
10 confidential by law and privileged, shall not be subject to open
11 records or freedom of information requests, shall not be subject to
12 subpoena, and shall not be subject to discovery or admissible in
13 evidence in any private civil action ~~if obtained from the~~
14 ~~Commissioner, a state, federal, or international regulatory agency,~~
15 ~~or the National Association of Insurance Commissioners, or any~~
16 ~~person or entity affiliated therewith.~~

17 SECTION 3. This act shall become effective November 1, 2015."
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1 Passed the Senate the 8th day of April, 2015.

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3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2015.

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8 _____
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12 of the supervisory college. Nothing in this section shall delegate
13 to the supervisory college the authority of the Commissioner to
14 regulate or supervise the insurer or its affiliates within its
15 jurisdiction.

16 SECTION 2. This act shall become effective November 1, 2015.

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1 Passed the House of Representatives the 4th day of March, 2015.

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3 _____
4 Presiding Officer of the House
of Representatives

5 Passed the Senate the ____ day of _____, 2015.

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8 _____
9 Presiding Officer of the Senate