

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 663 By: Brooks of the Senate

3 and
4 McDaniel (Randy) of the
5 House

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8 [insurance - Own Risk and Solvency Assessment (ORSA)
Act - ORSA consistent with certain process -
9 Insurance Commissioner - attestation of report -
10 compliance - standards for review - confidentiality -
penalty - codification - effective date]

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13 AMENDMENT NO. 1. Strike the stricken title, enacting clause and
14 entire bill and insert

15 "An Act relating to insurance; creating the Own Risk
16 and Solvency Assessment (ORSA) Act; defining terms;
17 requiring insurers to maintain certain framework;
18 requiring insurers and insurance groups to conduct
ORSA consistent with certain process; providing for
19 reporting to the Insurance Commissioner; requiring
certain attestation of report; providing reporting
20 procedures and setting date of first report;
providing for exemption and providing procedures;
21 granting certain authority to and specifying duties
of the Insurance Commissioner; providing time period
for certain compliance; providing for contents of
22 report; specifying standards for review; providing
for confidentiality of certain documents;
23 authorizing certain use; prohibiting certain
testimony; providing for certain agreements;
24 construing certain acts; providing penalty for
failure to file timely report; providing for
codification; and providing an effective date.

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

2 SECTION 1. NEW LAW A new section of law to be codified
3 in the Oklahoma Statutes as Section 3301 of Title 36, unless there
4 is created a duplication in numbering, reads as follows:

5 This act shall be known and may be cited as the "Own Risk and
6 Solvency Assessment (ORSA) Act".

7 SECTION 2. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 3302 of Title 36, unless there
9 is created a duplication in numbering, reads as follows:

10 As used in the Own Risk and Solvency Assessment (ORSA) Act:

11 1. "Insurance group" shall mean, for the purpose of conducting
12 an Own Risk and Solvency Assessment (ORSA), those insurers and
13 affiliates included within an insurance holding company system as
14 defined in Section 1651 of Title 36 of the Oklahoma Statutes;

15 2. "Insurer" shall have the same meaning as set forth in
16 Section 103 of Title 36 of the Oklahoma Statutes, except that it
17 shall not include agencies, authorities or instrumentalities of the
18 United States, its possessions and territories, the Commonwealth of
19 Puerto Rico, the District of Columbia or a state or political
20 subdivision of a state;

21 3. "Own Risk and Solvency Assessment" or "ORSA" shall mean a
22 confidential internal assessment, appropriate to the nature, scale,
23 and complexity of an insurer or insurance group, conducted by that
24 insurer or insurance group of the material and relevant risks

1 associated with the insurer or insurance group's current business
2 plan, and the sufficiency of capital resources to support those
3 risks;

4 4. "ORSA Guidance Manual" shall mean the current version of the
5 Own Risk and Solvency Assessment Guidance Manual developed and
6 adopted by the National Association of Insurance Commissioners
7 (NAIC), as amended from time to time. A change in the ORSA Guidance
8 Manual shall be effective on January 1 following the calendar year
9 in which the changes have been adopted by the NAIC; and

10 5. "ORSA Summary Report" shall mean a confidential high-level
11 summary of an insurer's or insurance group's ORSA.

12 SECTION 3. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 3303 of Title 36, unless there
14 is created a duplication in numbering, reads as follows:

15 An insurer shall maintain a risk management framework to assist
16 the insurer with identifying, assessing, monitoring, managing, and
17 reporting on its material and relevant risks. This requirement may
18 be satisfied if the insurance group of which the insurer is a member
19 maintains a risk management framework applicable to the operations
20 of the insurer.

21 SECTION 4. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 3304 of Title 36, unless there
23 is created a duplication in numbering, reads as follows:

24

1 Subject to the provisions of Section 6 of this act, an insurer,
2 or the insurance group of which the insurer is a member, shall
3 regularly conduct an ORSA consistent with a process comparable to
4 the ORSA Guidance Manual. The ORSA shall be conducted no less than
5 annually, but also at any time when there are significant changes to
6 the risk profile of the insurer or the insurance group of which the
7 insurer is a member.

8 SECTION 5. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 3305 of Title 36, unless there
10 is created a duplication in numbering, reads as follows:

11 A. Upon the Insurance Commissioner's request, and no more than
12 once each year, an insurer shall submit to the Insurance
13 Commissioner an ORSA Summary Report or any combination of reports
14 that together contain the information described in the ORSA Guidance
15 Manual, applicable to the insurer and/or the insurance group of
16 which it is a member. Notwithstanding any request from the
17 Insurance Commissioner, if the insurer is a member of an insurance
18 group, the insurer shall submit the report(s) required by this
19 subsection if the Insurance Commissioner is the lead state Insurance
20 Commissioner of the insurance group as determined by the procedures
21 within the Financial Analysis Handbook adopted by the National
22 Association of Insurance Commissioners.

23 B. The report(s) shall include a signature of the insurer or
24 insurance group's chief risk officer or other executive having

1 responsibility for the oversight of the insurer's enterprise risk
2 management process attesting to the best of his or her belief and
3 knowledge that the insurer applies the enterprise risk management
4 process described in the ORSA Summary Report and that a copy of the
5 report has been provided to the insurer's board of directors or the
6 appropriate committee thereof.

7 C. An insurer may comply with subsection A of this section by
8 providing the most recent and substantially similar reports provided
9 by the insurer or another member of an insurance group of which the
10 insurer is a member to the Insurance Commissioner of another state
11 or to a supervisor or regulator of a foreign jurisdiction, if that
12 report provides information that is comparable to the information
13 described in the ORSA Guidance Manual. Any such report in a
14 language other than English must be accompanied by a translation of
15 that report into the English language.

16 D. The first filing of the ORSA Summary Report shall be in 2016
17 pursuant to this section.

18 SECTION 6. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 3306 of Title 36, unless there
20 is created a duplication in numbering, reads as follows:

21 A. An insurer shall be exempt from the requirements of this
22 act, if:

23 1. The insurer has annual direct written and unaffiliated
24 assumed premiums, including international direct and assumed

1 premiums, but excluding premiums reinsured with the Federal Crop
2 Insurance Corporation and Federal Flood Program, of less than Five
3 Hundred Million Dollars (\$500,000,000.00); and

4 2. The insurance group of which the insurer is a member has
5 annual direct written and unaffiliated assumed premiums including
6 international direct and assumed premiums, but excluding premiums
7 reinsured with the Federal Crop Insurance Corporation and Federal
8 Flood Program, of less than One Billion Dollars (\$1,000,000,000.00).

9 B. If an insurer qualifies for exemption pursuant to paragraph
10 1 of subsection A of this section, but the insurance group of which
11 the insurer is a member does not qualify for exemption pursuant to
12 paragraph 2 of subsection A of this section, then the ORSA Summary
13 Report that may be required pursuant to Section 5 of this act shall
14 include every insurer within the insurance group. This requirement
15 may be satisfied by the submission of more than one ORSA Summary
16 Report for any combination of insurers, provided any combination of
17 reports includes every insurer within the insurance group.

18 C. If an insurer does not qualify for exemption pursuant to
19 paragraph 1 of subsection A of this section, but the insurance group
20 of which it is a member qualifies for exemption pursuant to
21 paragraph 2 of subsection A of this section, then the only ORSA
22 Summary Report that may be required pursuant to the provisions of
23 Section 5 of this act shall be the report applicable to that
24 insurer.

1 D. An insurer that does not qualify for exemption pursuant to
2 subsection A of this section may apply to the Insurance Commissioner
3 for a waiver from the requirements of this act. In deciding whether
4 to grant the insurer's request for waiver, the Insurance
5 Commissioner may consider the type and volume of business written,
6 ownership and organizational structure, and any other factor the
7 Insurance Commissioner considers relevant to the insurer or
8 insurance group of which the insurer is a member. If the insurer is
9 part of an insurance group with insurers domiciled in more than one
10 state, the Insurance Commissioner shall coordinate with the lead
11 state Insurance Commissioner and with the other domiciliary
12 Insurance Commissioners in considering whether to grant the
13 insurer's request for a waiver.

14 E. Notwithstanding the exemptions stated in this section:

15 1. The Insurance Commissioner may require that an insurer
16 maintain a risk management framework, conduct an ORSA and file an
17 ORSA Summary Report based on circumstances including, but not
18 limited to, the type and volume of business written, ownership and
19 organizational structure, federal agency requests, and international
20 supervisor requests; and

21 2. The Insurance Commissioner may require that an insurer
22 maintain a risk management framework, conduct an ORSA, and file an
23 ORSA Summary Report if the insurer has risk-based capital for a
24 Company Action Level Event as provided by law, meets one or more of

1 the standards of an insurer deemed to be in hazardous financial
2 condition as provided by law or otherwise exhibits qualities of a
3 troubled insurer as determined by the Insurance Commissioner.

4 F. If an insurer that qualifies for an exemption pursuant to
5 subsection A of this section subsequently no longer qualifies for
6 that exemption due to changes in premium as reflected in the
7 insurer's most recent annual statement or in the most recent annual
8 statements of the insurers within the insurance group of which the
9 insurer is a member, the insurer shall have one (1) year following
10 the year the threshold is exceeded to comply with the requirements
11 of this act.

12 SECTION 7. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 3307 of Title 36, unless there
14 is created a duplication in numbering, reads as follows:

15 A. The ORSA Summary Report shall be prepared consistent with
16 the ORSA Guidance Manual, subject to the requirements of subsection
17 B of this section. Documentation and supporting information shall
18 be maintained and made available upon examination or upon request of
19 the Insurance Commissioner.

20 B. The review of the ORSA Summary Report and any additional
21 requests for information shall be made using similar procedures
22 currently used in the analysis and examination of multistate or
23 global insurers and insurance groups.

1 SECTION 8. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3308 of Title 36, unless there
3 is created a duplication in numbering, reads as follows:

4 A. Documents, materials or other information, including the
5 ORSA Summary Report, in the possession of or control of the
6 Department of Insurance that are obtained by, created by or
7 disclosed to the Insurance Commissioner or any other person under
8 this act are recognized by this state as being proprietary and to
9 contain trade secrets. All such documents, materials or other
10 information shall be confidential by law and privileged, shall not
11 be subject to the Oklahoma Open Records Act, shall not be subject to
12 subpoena, and shall not be subject to discovery or admissible in
13 evidence in any private civil action. However, the Insurance
14 Commissioner is authorized to use the documents, materials or other
15 information in the furtherance of any regulatory or legal action
16 brought as a part of the Insurance Commissioner's official duties.
17 The Insurance Commissioner shall not otherwise make the documents,
18 materials or other information public without the prior written
19 consent of the insurer.

20 B. Neither the Insurance Commissioner nor any person who
21 received documents, materials or other ORSA-related information,
22 through examination or otherwise, while acting under the authority
23 of the Insurance Commissioner or with whom such documents, materials
24 or other information are shared pursuant to this act shall be

1 permitted or required to testify in any private civil action
2 concerning any confidential documents, materials or information
3 subject to subsection A of this section.

4 C. In order to assist in the performance of the Insurance
5 Commissioner's regulatory duties, the Insurance Commissioner:

6 1. May, upon request, share documents, materials or other ORSA-
7 related information, including the confidential and privileged
8 documents, materials or information subject to subsection A of this
9 section, including proprietary and trade-secret documents and
10 materials with other state, federal, and international financial
11 regulatory agencies, including members of any supervisory college,
12 with the NAIC and with any third-party consultants designated by the
13 Insurance Commissioner, provided that the recipient agrees in
14 writing to maintain the confidentiality and privileged status of the
15 ORSA-related documents, materials or other information and has
16 verified in writing the legal authority to maintain confidentiality;

17 2. May receive documents, materials or other ORSA-related
18 information, including otherwise confidential and privileged
19 documents, materials or information, including proprietary and
20 trade-secret information or documents, from regulatory officials of
21 other foreign or domestic jurisdictions, including members of any
22 supervisory college, and from the NAIC, and shall maintain as
23 confidential or privileged any documents, materials or information
24 received with notice or the understanding that it is confidential or

1 privileged under the laws of the jurisdiction that is the source of
2 the document, material or information; and

3 3. Shall enter into a written agreement with the NAIC or a
4 third-party consultant governing sharing and use of information
5 provided pursuant to this act, consistent with this subsection that
6 shall:

7 a. specify procedures and protocols regarding the
8 confidentiality and security of information shared
9 with the NAIC or a third-party consultant pursuant to
10 this act, including procedures and protocols for
11 sharing by the NAIC with other state regulators from
12 states in which the insurance group has domiciled
13 insurers. The agreement shall provide that the
14 recipient agrees in writing to maintain the
15 confidentiality and privileged status of the ORSA-
16 related documents, materials or other information and
17 has verified in writing the legal authority to
18 maintain confidentiality,

19 b. specify that ownership of information shared with the
20 NAIC or a third-party consultant pursuant to this act
21 remains with the Insurance Commissioner and the NAIC's
22 or a third-party consultant's use of the information
23 is subject to the direction of the Insurance
24 Commissioner,

- 1 c. prohibit the NAIC or third-party consultant from
2 storing the information shared pursuant to this act in
3 a permanent database after the underlying analysis is
4 completed,
- 5 d. require prompt notice to be given to an insurer whose
6 confidential information in the possession of the NAIC
7 or a third-party consultant pursuant to this act is
8 subject to a request or subpoena to the NAIC or a
9 third-party consultant for disclosure or production,
- 10 e. require the NAIC or a third-party consultant to
11 consent to intervention by an insurer in any judicial
12 or administrative action in which the NAIC or a third-
13 party consultant may be required to disclose
14 confidential information about the insurer shared with
15 the NAIC or a third-party consultant pursuant to this
16 section, and
- 17 f. in the case of an agreement involving a third-party
18 consultant, provide for the insurer's written consent.

19 D. The sharing of information and documents by the Insurance
20 Commissioner pursuant to this act shall not constitute a delegation
21 of regulatory authority or rulemaking, and the Insurance
22 Commissioner is solely responsible for the administration, execution
23 and enforcement of the provisions of this act.

1 E. No waiver of any applicable privilege or claim of
2 confidentiality in the documents, proprietary and trade-secret
3 materials or other ORSA-related information shall occur as a result
4 of disclosure of such ORSA-related information or documents to the
5 Insurance Commissioner under this section or as a result of sharing
6 as authorized in this act.

7 F. Documents, materials or other information in the possession
8 or control of the NAIC or a third-party consultant pursuant to this
9 act shall be confidential by law and privileged, shall not be
10 subject to the Oklahoma Open Records Act, shall not be subject to
11 subpoena, and shall not be subject to discovery or admissible in
12 evidence in any private civil action.

13 SECTION 9. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 3309 of Title 36, unless there
15 is created a duplication in numbering, reads as follows:

16 Any insurer failing, without just cause, to timely file the ORSA
17 Summary Report as required in this act shall be required, after
18 notice and hearing, to pay a penalty of One Thousand Dollars
19 (\$1,000.00) for each day's delay, to be recovered by the Insurance
20 Commissioner. The maximum penalty under this section is Twenty-five
21 Thousand Dollars (\$25,000.00). The Insurance Commissioner may
22 reduce the penalty if the insurer demonstrates to the Insurance
23 Commissioner that the imposition of the penalty would constitute a
24 financial hardship to the insurer.

1 ENGROSSED SENATE
BILL NO. 663

By: Brooks of the Senate

and

McDaniel (Randy) of the
House

7 [insurance - Own Risk and Solvency Assessment (ORSA)
Act - ORSA consistent with certain process -
8 Insurance Commissioner - attestation of report -
compliance - standards for review - confidentiality -
9 penalty - codification - effective date]

10

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

13 SECTION 1. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 3301 of Title 36, unless there
15 is created a duplication in numbering, reads as follows:

16 This act shall be known and may be cited as the "Own Risk and
17 Solvency Assessment (ORSA) Act."

18 SECTION 2. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 3302 of Title 36, unless there
20 is created a duplication in numbering, reads as follows:

21 As used in the Own Risk and Solvency Assessment (ORSA) Act:

22 1. "Insurance group" shall mean, for the purpose of conducting
23 an Own Risk and Solvency Assessment "ORSA", those insurers and

24

1 affiliates included within an insurance holding company system as
2 defined in Section 1651 of Title 36 of the Oklahoma Statutes;

3 2. "Insurer" shall have the same meaning as set forth in
4 Section 103 of Title 36 of the Oklahoma Statutes, except that it
5 shall not include agencies, authorities or instrumentalities of the
6 United States, its possessions and territories, the Commonwealth of
7 Puerto Rico, the District of Columbia or a state or political
8 subdivision of a state;

9 3. "Own Risk and Solvency Assessment" or "ORSA" shall mean a
10 confidential internal assessment, appropriate to the nature, scale,
11 and complexity of an insurer or insurance group, conducted by that
12 insurer or insurance group of the material and relevant risks
13 associated with the insurer or insurance group's current business
14 plan, and the sufficiency of capital resources to support those
15 risks;

16 4. "ORSA Guidance Manual" shall mean the current version of the
17 Own Risk and Solvency Assessment Guidance Manual developed and
18 adopted by the National Association of Insurance Commissioners
19 (NAIC), as amended from time to time. A change in the ORSA Guidance
20 Manual shall be effective on January 1 following the calendar year
21 in which the changes have been adopted by the NAIC; and

22 5. "ORSA Summary Report" shall mean a confidential high-level
23 summary of an insurer or insurance group's ORSA.
24

1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3303 of Title 36, unless there
3 is created a duplication in numbering, reads as follows:

4 An insurer shall maintain a risk management framework to assist
5 the insurer with identifying, assessing, monitoring, managing, and
6 reporting on its material and relevant risks. This requirement may
7 be satisfied if the insurance group of which the insurer is a member
8 maintains a risk management framework applicable to the operations
9 of the insurer.

10 SECTION 4. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 3304 of Title 36, unless there
12 is created a duplication in numbering, reads as follows:

13 Subject to the provisions of Section 6 of this act, an insurer,
14 or the insurance group of which the insurer is a member, shall
15 regularly conduct an ORSA consistent with a process comparable to
16 the ORSA Guidance Manual. The ORSA shall be conducted no less than
17 annually, but also at any time when there are significant changes to
18 the risk profile of the insurer or the insurance group of which the
19 insurer is a member.

20 SECTION 5. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 3305 of Title 36, unless there
22 is created a duplication in numbering, reads as follows:

23 A. Upon the Insurance Commissioner's request, and no more than
24 once each year, an insurer shall submit to the Insurance

1 Commissioner an ORSA Summary Report or any combination of reports
2 that together contain the information described in the ORSA Guidance
3 Manual, applicable to the insurer and/or the insurance group of
4 which it is a member. Notwithstanding any request from the
5 Insurance Commissioner, if the insurer is a member of an insurance
6 group, the insurer shall submit the report(s) required by this
7 subsection if the Insurance Commissioner is the lead state Insurance
8 Commissioner of the insurance group as determined by the procedures
9 within the Financial Analysis Handbook adopted by the National
10 Association of Insurance Commissioners.

11 B. The report(s) shall include a signature of the insurer or
12 insurance group's chief risk officer or other executive having
13 responsibility for the oversight of the insurer's enterprise risk
14 management process attesting to the best of his or her belief and
15 knowledge that the insurer applies the enterprise risk management
16 process described in the ORSA Summary Report and that a copy of the
17 report has been provided to the insurer's board of directors or the
18 appropriate committee thereof.

19 C. An insurer may comply with subsection A of this section by
20 providing the most recent and substantially similar reports provided
21 by the insurer or another member of an insurance group of which the
22 insurer is a member to the Insurance Commissioner of another state
23 or to a supervisor or regulator of a foreign jurisdiction, if that
24 report provides information that is comparable to the information

1 described in the ORSA Guidance Manual. Any such report in a
2 language other than English must be accompanied by a translation of
3 that report into the English language.

4 D. The first filing of the ORSA Summary Report shall be in 2016
5 pursuant to this section.

6 SECTION 6. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 3306 of Title 36, unless there
8 is created a duplication in numbering, reads as follows:

9 A. An insurer shall be exempt from the requirements of this
10 act, if:

11 1. The insurer has annual direct written and unaffiliated
12 assumed premiums, including international direct and assumed
13 premiums, but excluding premiums reinsured with the Federal Crop
14 Insurance Corporation and Federal Flood Program, less than Five
15 Hundred Million Dollars (\$500,000,000.00); and

16 2. The insurance group of which the insurer is a member has
17 annual direct written and unaffiliated assumed premium including
18 international direct and assumed premiums, but excluding premiums
19 reinsured with the Federal Crop Insurance Corporation and Federal
20 Flood Program, less than One Billion Dollars (\$1,000,000,000.00).

21 B. If an insurer qualifies for exemption pursuant to paragraph
22 1 of subsection A of this section, but the insurance group of which
23 the insurer is a member does not qualify for exemption pursuant to
24 paragraph 2 of subsection A of this section, then the ORSA Summary

1 Report that may be required pursuant to Section 5 of this act shall
2 include every insurer within the insurance group. This requirement
3 may be satisfied by the submission of more than one ORSA Summary
4 Report for any combination of insurers, provided any combination of
5 reports includes every insurer within the insurance group.

6 C. If an insurer does not qualify for exemption pursuant to
7 paragraph 1 of subsection A of this section, but the insurance group
8 of which it is a member qualifies for exemption pursuant to
9 paragraph 2 of subsection A of this section, then the only ORSA
10 Summary Report that may be required pursuant to the provisions of
11 Section 5 of this act shall be the report applicable to that
12 insurer.

13 D. An insurer that does not qualify for exemption pursuant to
14 subsection A of this section may apply to the Insurance Commissioner
15 for a waiver from the requirements of this act. In deciding whether
16 to grant the insurer's request for waiver, the Insurance
17 Commissioner may consider the type and volume of business written,
18 ownership and organizational structure, and any other factor the
19 Insurance Commissioner considers relevant to the insurer or
20 insurance group of which the insurer is a member. If the insurer is
21 part of an insurance group with insurers domiciled in more than one
22 state, the Insurance Commissioner shall coordinate with the lead
23 state Insurance Commissioner and with the other domiciliary

24

1 Insurance Commissioners in considering whether to grant the
2 insurer's request for a waiver.

3 E. Notwithstanding the exemptions stated in this section:

4 1. The Insurance Commissioner may require that an insurer
5 maintain a risk management framework, conduct an ORSA and file an
6 ORSA Summary Report based on circumstances including, but not
7 limited to, the type and volume of business written, ownership and
8 organizational structure, federal agency requests, and international
9 supervisor requests; and

10 2. The Insurance Commissioner may require that an insurer
11 maintain a risk management framework, conduct an ORSA, and file an
12 ORSA Summary Report if the insurer has Risk-Based Capital for
13 company action level event as provided by law, meets one or more of
14 the standards of an insurer deemed to be in hazardous financial
15 condition as provided by law or otherwise exhibits qualities of a
16 troubled insurer as determined by the Insurance Commissioner.

17 F. If an insurer that qualifies for an exemption pursuant to
18 subsection A of this section subsequently no longer qualifies for
19 that exemption due to changes in premium as reflected in the
20 insurer's most recent annual statement or in the most recent annual
21 statements of the insurers within the insurance group of which the
22 insurer is a member, the insurer shall have one (1) year following
23 the year the threshold is exceeded to comply with the requirements
24 of this act.

1 SECTION 7. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3307 of Title 36, unless there
3 is created a duplication in numbering, reads as follows:

4 A. The ORSA Summary Report shall be prepared consistent with
5 the ORSA Guidance Manual, subject to the requirements of subsection
6 B of this section. Documentation and supporting information shall
7 be maintained and made available upon examination or upon request of
8 the Insurance Commissioner.

9 B. The review of the ORSA Summary Report and any additional
10 requests for information shall be made using similar procedures
11 currently used in the analysis and examination of multistate or
12 global insurers and insurance groups.

13 SECTION 8. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 3308 of Title 36, unless there
15 is created a duplication in numbering, reads as follows:

16 A. Documents, materials or other information, including the
17 ORSA Summary Report, in the possession of or control of the
18 Department of Insurance that are obtained by, created by or
19 disclosed to the Insurance Commissioner or any other person under
20 this act, are recognized by this state as being proprietary and to
21 contain trade secrets. All such documents, materials or other
22 information shall be confidential by law and privileged, shall not
23 be subject to the Oklahoma Open Records Act, shall not be subject to
24 subpoena, and shall not be subject to discovery or admissible in

1 evidence in any private civil action. However, the Insurance
2 Commissioner is authorized to use the documents, materials or other
3 information in the furtherance of any regulatory or legal action
4 brought as a part of the Insurance Commissioner's official duties.
5 The Insurance Commissioner shall not otherwise make the documents,
6 materials or other information public without the prior written
7 consent of the insurer.

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

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

18 1. May, upon request, share documents, materials or other ORSA-
19 related information, including the confidential and privileged
20 documents, materials or information subject to subsection A of this
21 section, including proprietary and trade secret documents and
22 materials with other state, federal, and international financial
23 regulatory agencies, including members of any supervisory college,
24 with the NAIC and with any third-party consultants designated by the

1 Insurance Commissioner, provided that the recipient agrees in
2 writing to maintain the confidentiality and privileged status of the
3 ORSA-related documents, materials or other information and has
4 verified in writing the legal authority to maintain confidentiality;

5 2. May receive documents, materials or other ORSA-related
6 information, including otherwise confidential and privileged
7 documents, materials or information, including proprietary and
8 trade-secret information or documents, from regulatory officials of
9 other foreign or domestic jurisdictions, including members of any
10 supervisory college, and from the NAIC, and shall maintain as
11 confidential or privileged any documents, materials or information
12 received with notice or the understanding that it is confidential or
13 privileged under the laws of the jurisdiction that is the source of
14 the document, material or information; and

15 3. Shall enter into a written agreement with the NAIC or a
16 third-party consultant governing sharing and use of information
17 provided pursuant to this act, consistent with this subsection that
18 shall:

19 a. specify procedures and protocols regarding the
20 confidentiality and security of information shared
21 with the NAIC or a third-party consultant pursuant to
22 this act, including procedures and protocols for
23 sharing by the NAIC with other state regulators from
24 states in which the insurance group has domiciled

1 insurers. The agreement shall provide that the
2 recipient agrees in writing to maintain the
3 confidentiality and privileged status of the ORSA-
4 related documents, materials or other information and
5 has verified in writing the legal authority to
6 maintain confidentiality,

7 b. specify that ownership of information shared with the
8 NAIC or a third-party consultant pursuant to this act
9 remains with the Insurance Commissioner and the NAIC's
10 or a third-party consultant's use of the information
11 is subject to the direction of the Insurance
12 Commissioner,

13 c. prohibit the NAIC or third-party consultant from
14 storing the information shared pursuant to this act in
15 a permanent database after the underlying analysis is
16 completed,

17 d. require prompt notice to be given to an insurer whose
18 confidential information in the possession of the NAIC
19 or a third-party consultant pursuant to this act is
20 subject to a request or subpoena to the NAIC or a
21 third-party consultant for disclosure or production,

22 e. require the NAIC or a third-party consultant to
23 consent to intervention by an insurer in any judicial
24 or administrative action in which the NAIC or a third-

1 party consultant may be required to disclose
2 confidential information about the insurer shared with
3 the NAIC or a third-party consultant pursuant to this
4 section, and

5 f. in the case of an agreement involving a third-party
6 consultant, provide for the insurer's written consent.

7 D. The sharing of information and documents by the Insurance
8 Commissioner pursuant to this act shall not constitute a delegation
9 of regulatory authority or rulemaking, and the Insurance
10 Commissioner is solely responsible for the administration, execution
11 and enforcement of the provisions of this act.

12 E. No waiver of any applicable privilege or claim of
13 confidentiality in the documents, proprietary and trade-secret
14 materials or other ORSA-related information shall occur as a result
15 of disclosure of such ORSA-related information or documents to the
16 Insurance Commissioner under this section or as a result of sharing
17 as authorized in this act.

18 F. Documents, materials or other information in the possession
19 or control of the NAIC or a third-party consultant pursuant to this
20 act shall be confidential by law and privileged, shall not be
21 subject to the Oklahoma Open Records Act, shall not be subject to
22 subpoena, and shall not be subject to discovery or admissible in
23 evidence in any private civil action.

1 SECTION 9. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3309 of Title 36, unless there
3 is created a duplication in numbering, reads as follows:

4 Any insurer failing, without just cause, to timely file the ORSA
5 Summary Report as required in this act shall be required, after
6 notice and hearing, to pay a penalty of One Thousand Dollars
7 (\$1,000.00) for each day's delay, to be recovered by the Insurance
8 Commissioner. The maximum penalty under this section is Twenty-five
9 Thousand Dollars (\$25,000.00). The Insurance Commissioner may
10 reduce the penalty if the insurer demonstrates to the Insurance
11 Commissioner that the imposition of the penalty would constitute a
12 financial hardship to the insurer.

13 SECTION 10. This act shall become effective January 1, 2016.

14 Passed the Senate the 5th day of March, 2015.

15
16 _____
17 Presiding Officer of the Senate

18 Passed the House of Representatives the ____ day of _____,
19 2015.

20
21 _____
22 Presiding Officer of the House
23 of Representatives

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