

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 60th Legislature (2025)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1497

By: Tedford of the House

and

Reinhardt of the Senate

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10 COMMITTEE SUBSTITUTE

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

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

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

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

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

5 2. "Commissioner" means the Insurance Commissioner of the State
6 of Oklahoma, the Commissioner's deputies, or the Insurance
7 Department, as appropriate;

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

1 4. "Group-wide supervisor" means the regulatory official
2 authorized to engage in conducting and coordinating group-wide
3 supervision activities who is determined or acknowledged by the
4 Commissioner under Section ~~9~~ 1639 of this ~~act~~ title to have
5 sufficient significant contacts with the internationally active
6 insurance group;

7 5. "Group Capital Calculation Instructions" means the group
8 capital calculation instructions as adopted by the NAIC and as
9 amended by the NAIC from time to time in accordance with the
10 procedures adopted by the NAIC;

11 6. "Insurance holding company system" means an insurance
12 holding company system consisting of two or more affiliated persons,
13 one or more of which is an insurer;

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

20 ~~7.~~ 8. "Internationally active insurance group" means an
21 insurance holding company system that:

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

24 b. meets the following criteria:

- 1 (1) premiums written in at least three countries,
2 (2) the percentage of gross premiums written outside
3 the United States is at least ten percent (10%)
4 of the insurance holding company system's total
5 gross written premiums, and
6 (3) based on a three-year rolling average, the total
7 assets of the insurance holding company system
8 are at least Fifty Billion Dollars
9 (\$50,000,000,000.00) or the total gross written
10 premiums of the insurance holding company system
11 are at least Ten Billion Dollars
12 (\$10,000,000,000.00);

13 ~~8.~~ 9. "Enterprise risk" means any activity, circumstance, event
14 or series of events involving one or more affiliates of an insurer
15 that, if not remedied promptly, is likely to have a material adverse
16 effect upon the financial condition or liquidity of the insurer or
17 its insurance holding company system as a whole, including, but not
18 limited to, anything that would cause the insurer's risk-based
19 capital to fall into company action level as set forth in the Risk-
20 based Capital for Insurers Act provided in Sections 1521 through
21 1533 of Title 36 of the Oklahoma Statutes, or would cause the insurer
22 to be in hazardous financial condition pursuant to rules promulgated
23 by the Insurance Department;

1 ~~9.~~ 10. "NAIC" means the National Association of Insurance
2 Commissioners;

3 11. "NAIC Liquidity Stress Test Framework" means a separate
4 NAIC publication which includes a history of the NAIC's development
5 of regulatory Liquidity Stress Testing, the Scope Criteria
6 applicable for a specific data year, and the Liquidity Stress Test
7 instructions and reporting templates for a specific data year, such
8 Scope Criteria, instructions and reporting template being as adopted
9 by the NAIC and as amended by the NAIC from time to time in
10 accordance with the procedures adopted by the NAIC;

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

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

22 14. "Securityholder" of a specified person means one who owns
23 any security of such person, including common stock, preferred
24

1 stock, debt obligations and any other security convertible into or
2 evidencing the right to acquire any of the foregoing;

3 ~~11.~~ 15. "Subsidiary" of a specified person means an affiliate
4 controlled by such person directly or indirectly through one or more
5 intermediaries; and

6 ~~12.~~ 16. "Voting security" means any security convertible into
7 or evidencing a right to acquire a voting security.

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

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

16 1. This section;

17 2. Paragraph 1 of subsection A of Section ~~6~~ 1636 of this ~~act~~
18 title and subsections B and D of Section 6 of this act; and

19 3. Either paragraph 2 of subsection A of Section 6 of this act
20 or a provision such as the following: Each registered insurer shall
21 keep current the information required to be disclosed in its
22 registration statement by reporting all material changes or
23 additions within fifteen (15) days after the end of the month in
24 which it learns of each change or addition; provided, however, that

1 subject to subsection B of Section ~~6~~ 1636 of this ~~act~~ title, each
2 registered insurer shall so report all dividends and other
3 distributions to shareholders within two (2) business days following
4 the declaration thereof.

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

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

22 1. The capital structure, general financial condition,
23 ownership and management of the insurer and any person controlling
24 the insurer;

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

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

6 a. loans, other investments, or purchases, sales or
7 exchanges of securities of the affiliates by the
8 insurer or of the insurer by its affiliates,

9 b. purchases, sales or exchange of assets,

10 c. transactions not in the ordinary course of business,

11 d. guarantees or undertakings for the benefit of an
12 affiliate which result in an actual contingent

13 exposure of the insurer's assets to liability, other
14 than insurance contracts entered into in the ordinary
15 course of the insurer's business,

16 e. all management agreements, service contracts and all
17 cost-sharing arrangements,

18 f. reinsurance agreements,

19 g. dividends and other distributions to shareholders, and

20 h. consolidated tax allocation agreements;

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

1 5. If requested by the Commissioner, the insurer shall include
2 financial statements of or within an insurance holding company
3 system, including all affiliates. Financial statements may include
4 but are not limited to annual audited financial statements filed
5 with the U.S. Securities and Exchange Commission (SEC) pursuant to
6 the Securities Act of 1933, as amended, or the Securities Exchange
7 Act of 1934, as amended. An insurer required to file financial
8 statements pursuant to this paragraph may satisfy the request by
9 providing the Commissioner with the most recently filed parent
10 corporation financial statements that have been filed with the SEC;

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

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

19 8. Any other information required by the Commissioner by rule
20 or regulation.

21 C. All registration statements shall contain a summary
22 outlining all items in the current registration statement
23 representing changes from the prior registration statement.

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1 D. No information need be disclosed on the registration
2 statement filed pursuant to subsection B of this section if the
3 information is not material for the purposes of this section.
4 Unless the Commissioner by rule, regulation or order provides
5 otherwise, sales, purchases, exchanges, loans or extensions of
6 credit, investments, or guarantees involving one-half of one percent
7 (.5%) or less of an insurer's admitted assets as of December 31 next
8 preceding shall not be deemed material for purposes of this section.
9 The definition of materiality provided in this subsection shall not
10 apply for purposes of the Group Capital Calculation Instructions or
11 the Liquidity Stress Test Framework.

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

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

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

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1 H. The Commissioner may require or allow two or more affiliated
2 insurers subject to registration to file a consolidated registration
3 statement.

4 I. The Commissioner may allow an insurer which is authorized to
5 do business in this state and which is part of an insurance holding
6 company system to register on behalf of any affiliated insurer which
7 is required to register under subsection A of this section and to
8 file all information and material required to be filed under this
9 section.

10 J. The provisions of this section shall not apply to any
11 insurer, information or transaction if and to the extent that the
12 Commissioner by rule, regulation or order shall exempt the same from
13 the provisions of this section.

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

1 disclaiming party shall be relieved of its duty to register under
2 this section if approval of the disclaimer has been granted by the
3 Commissioner, or if the disclaimer is deemed to have been approved.

4 L. 1. The ultimate controlling person of every insurer subject
5 to registration shall also file an annual enterprise risk report.
6 The report shall, to the best of the ultimate controlling person's
7 knowledge and belief, identify the material risks within the
8 insurance holding company system that could pose enterprise risk to
9 the insurer. The report shall be filed with the lead state
10 Commissioner of the insurance holding company system as determined
11 by the procedures within the Financial Analysis Handbook adopted by
12 the National Association of Insurance Commissioners.

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

3 a. an insurance holding company system that has only one
4 insurer within its holding company structure, that
5 only writes business in its domestic state, and
6 assumes no business from any other insurer,

7 b. an insurance holding company system that is required
8 to perform a group capital calculation specified by
9 the United States Federal Reserve Board. The lead
10 state commissioner shall request the calculation from
11 the Federal Reserve Board under the terms of
12 information sharing agreements in effect. If the
13 Federal Reserve Board cannot share the calculation
14 with the lead state commissioner, the insurance
15 holding company system is not exempt from the group
16 capital calculation filing,

17 c. an insurance holding company system whose non-United-
18 States group-wide supervisor is located within a
19 reciprocal jurisdiction as described in Section 5122
20 of Title 36 of the Oklahoma Statutes that recognizes
21 the U.S. state regulatory approach to group
22 supervision and group capital,

23 d. an insurance holding company system:
24

1 (1) that provides information to the lead state that
2 meets the requirements for accreditation under
3 the NAIC financial standards and accreditation
4 program, either directly or indirectly through
5 the group-wide supervisor, who has determined
6 such information is satisfactory to allow the
7 lead state to comply with the NAIC group
8 supervision approach, as detailed in the NAIC
9 Financial Analysis Handbook, and

10 (2) whose non-United-States group-wide supervisor
11 that is not in a reciprocal jurisdiction
12 recognizes and accepts, as specified by the
13 commissioner in regulation, the group capital
14 calculation as the world-wide group capital
15 assessment for U.S. insurance groups who operate
16 in that jurisdiction,

17 e. notwithstanding the provisions of subparagraphs c and
18 d of paragraph 2 of subsection L of this section, a
19 lead state commissioner shall require the group
20 capital calculation for U.S. operations of any non-
21 United-States based insurance holding company system
22 where, after any necessary consultation with other
23 supervisors or officials, it is deemed appropriate by
24 the lead state commissioner for prudential oversight

1 and solvency monitoring purposes or for ensuring the
2 competitiveness of the insurance marketplace,

3 f. notwithstanding the exemptions from filing the group
4 capital calculation stated in subparagraphs a through
5 d of paragraph 2 of subsection L of this section, the
6 lead state commissioner has the discretion to exempt
7 the ultimate controlling person from filing the annual
8 group capital calculation or to accept a limited group
9 capital filing or report in accordance with criteria
10 as specified by the commissioner in regulation, and

11 g. if the lead state commissioner determines that an
12 insurance holding company system no longer meets one
13 or more of the requirements for an exemption from
14 filing the group capital calculation under this
15 section, the insurance holding company system shall
16 file the group capital calculation at the next annual
17 filing date unless given an extension by the lead
18 state commissioner based on reasonable grounds shown;

19 3. The ultimate controlling person of every insurer subject to
20 registration and also scoped into the NAIC Liquidity Stress Test
21 Framework shall file the results of a specific year's Liquidity
22 Stress Test. The filing shall be made to the lead state insurance
23 commissioner of the insurance holding company system as determined
24

1 by the procedures within the Financial Analysis Handbook adopted by
2 the NAIC:

3 a. the NAIC Liquidity Stress Test Framework includes
4 Scope Criteria applicable to a specific data year.
5 These Scope Criteria are reviewed at least annually by
6 the Financial Stability Task Force or its successor.
7 Any change to the NAIC Liquidity Stress Test Framework
8 or to the data year for which the Scope Criteria are
9 to be measured shall be effective on January 1 of the
10 year following the calendar year when such changes are
11 adopted. Insurers meeting at least one threshold of
12 the Scope Criteria are considered scoped into the NAIC
13 Liquidity Stress Test Framework for the specified data
14 year unless the lead state insurance commissioner, in
15 consultation with the NAIC Financial Stability Task
16 Force or its successor, determines the insurer should
17 not be scoped into the Framework for that data year.
18 Similarly, insurers that do not trigger at least one
19 threshold of the Scope Criteria are considered scoped
20 out of the NAIC Liquidity Stress Test Framework for
21 the specified data year, unless the lead state
22 insurance commissioner, in consultation with the NAIC
23 Financial Stability Task Force or its successor,
24 determines the insurer should be scoped into the

1 Framework for that data year. Regulators wish to
2 avoid having insurers scoped in and out of the NAIC
3 Liquidity Stress Test Framework on a frequent basis.
4 The lead state insurance commissioner, in consultation
5 with the Financial Stability Task Force or its
6 successor, will assess this concern as part of the
7 determination for an insurer, and

8 b. the performance of, and filing of the results from, a
9 specific year's Liquidity Stress Test shall comply
10 with the NAIC Liquidity Stress Test Framework's
11 instructions and reporting templates for that year and
12 any lead state insurance commissioner determinations,
13 in consultation with the Financial Stability Task
14 Force or its successor, provided within the Framework.

15 M. The failure to file a registration statement or any summary
16 of the registration statement or enterprise risk filing required by
17 this section within the time specified for filing shall be a
18 violation of this section.

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

21 Section 1640. A. Documents, materials or other information in
22 the possession or control of the Insurance Department that are
23 obtained by or disclosed to the Commissioner or any other person in
24 the course of an examination or investigation made pursuant to

1 Section ~~7~~ 1637 of this ~~act~~ title and all information reported or
2 provided to the Insurance Department pursuant to paragraphs 12 and
3 13 of subsection B of Section ~~3~~ 1633 of this ~~act~~ title, Section ~~5~~
4 1635 of this ~~act~~ title, Section ~~6~~ 1636 of this ~~act~~ title, and
5 Section ~~11~~ 1639 of this ~~act~~ title are recognized by this state as
6 being proprietary and containing trade secrets and shall be
7 confidential by law and privileged, shall not be subject to open
8 records, or freedom of information, shall not be subject to
9 subpoena, and shall not be subject to discovery or admissible in
10 evidence in any private civil action. However, the Commissioner is
11 authorized to use the documents, materials or other information in
12 the furtherance of any regulatory or legal action brought as a part
13 of the Commissioner's official duties. The Commissioner shall not
14 otherwise make the documents, materials or other information public
15 without the prior written consent of the insurer to which it
16 pertains unless the Commissioner, after giving the insurer and its
17 affiliates who would be affected thereby notice and opportunity to
18 be heard, determines that the interest of policyholders,
19 shareholders or the public will be served by the publication
20 thereof, in which event the Commissioner may publish all or any part
21 in such manner as may be deemed appropriate.

22 1. For purposes of the information reported and provided to the
23 Department of Insurance pursuant to paragraph 2 of subsection L of
24 Section 1635 of this title, the Commissioner shall maintain the

1 confidentiality of the group capital calculation and group capital
2 ratio produced within the calculation and any group capital
3 information received from an insurance holding company supervised by
4 the Federal Reserve Board or any U.S. group wide supervisor; and

5 2. For purposes of the information reported and provided to the
6 Department of Insurance pursuant to paragraph 3 of subsection L of
7 Section 1635 of this title, the Commissioner shall maintain the
8 confidentiality of the Liquidity Stress Test results and supporting
9 disclosures and any Liquidity Stress Test information received from
10 an insurance holding company supervised by the Federal Reserve Board
11 and non-United-States group wide supervisors.

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

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

21 1. May share documents, materials or other information,
22 including the confidential and privileged documents, materials or
23 information subject to subsection A of this section, including
24 proprietary and trade secret documents and materials, with other

1 state, federal and international regulatory agencies, with the
2 National Association of Insurance Commissioners (NAIC) and its
3 affiliates and subsidiaries, with any third-party consultants
4 designated by the Commissioner, and with state, federal and
5 international law enforcement authorities, including members of any
6 supervisory college described in Section § 1638 of this ~~act~~ title,
7 provided that the recipient agrees in writing to maintain the
8 confidentiality and privileged status of the document, material or
9 other information, and has verified in writing the legal authority
10 to maintain confidentiality;

11 2. Notwithstanding paragraph 1 of this subsection, may only
12 share confidential and privileged documents, material or information
13 reported pursuant to paragraph 1 of subsection L of Section § 1635
14 of this ~~act~~ title with Commissioners of states having statutes or
15 regulations substantially similar to subsection A of this section
16 and who have agreed in writing not to disclose such information;

17 3. May receive documents, materials or information, including
18 otherwise confidential and privileged documents, materials or
19 information, including proprietary and trade-secret information,
20 from the NAIC and its affiliates and subsidiaries and from
21 regulatory and law enforcement officials of other foreign or
22 domestic jurisdictions, and shall maintain as confidential or
23 privileged any document, material or information received with
24 notice or the understanding that it is confidential or privileged

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

3 4. Shall enter into written agreements with the NAIC and any
4 third-party consultant designated by the commissioner governing
5 sharing and use of information provided pursuant to this act
6 consistent with this subsection that shall:

7 a. specify procedures and protocols regarding the
8 confidentiality and security of information shared
9 with the NAIC ~~and its affiliates and subsidiaries~~ or a
10 third-party consultant designated by the Commissioner
11 pursuant to this act, including procedures and
12 protocols for sharing by the NAIC with other state,
13 federal or international regulators. The agreement
14 shall provide that the recipient agrees in writing to
15 maintain the confidentiality and privileged status of
16 the documents, materials or other information and has
17 verified in writing the legal authority to maintain
18 such confidentiality,

19 b. specify that ownership of information shared with the
20 NAIC ~~and its affiliates and subsidiaries~~ or a third-
21 party consultant pursuant to this act remains with the
22 Commissioner and the NAIC's or a third-party
23 consultant's, as designated by the Commissioner, use
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1 of the information is subject to the direction of the
2 Commissioner,

3 c. excluding documents, material or information reported
4 pursuant to paragraph 3 of subsection L of Section
5 1635 of this title, prohibit the NAIC or third-party
6 consultant designated by the Commissioner from storing
7 the information shared pursuant to this act in a
8 permanent database after the underlying analysis is
9 completed,

10 d. require prompt notice to be given to an insurer whose
11 confidential information in the possession of the NAIC
12 or a third-party consultant designated by the
13 Commissioner pursuant to this act is subject to a
14 request or subpoena to the NAIC or a third-party
15 consultant designated by the Commissioner for
16 disclosure or production, and

17 ~~d.~~

18 e. require the NAIC ~~and its affiliates and subsidiaries~~
19 or a third-party consultant designated by the
20 Commissioner to consent to intervention by an insurer
21 in any judicial or administrative action in which the
22 NAIC ~~and its affiliates and subsidiaries~~ or a third-
23 party consultant designated by the Commissioner may be
24 required to disclose confidential information about

1 the insurer shared with the NAIC ~~and its affiliates~~
2 ~~and subsidiaries~~ or a third-party consultant
3 designated by the Commissioner pursuant to this act.

4 f. for documents, material or information reported
5 pursuant to paragraph 3 of subsection L of Section
6 1635 of this act, in the case of an agreement
7 involving a third-party consultant, provide for
8 notification of the identity of the consultant to the
9 applicable insurers.

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

15 E. No waiver of any applicable privilege or claim of
16 confidentiality in the documents, materials or information shall
17 occur as a result of disclosure to the Commissioner under this
18 section or as a result of sharing as authorized in subsection C of
19 this section.

20 F. Documents, materials or other information in the possession
21 or control of the NAIC or a third-party consultant designated by the
22 Commissioner pursuant to this act shall be confidential by law and
23 privileged, shall not be subject to open records or freedom of
24 information, shall not be subject to subpoena, and shall not be

1 subject to discovery or admissible in evidence in any private civil
2 action.

3 G. The group capital calculation and resulting group capital
4 ratio required under paragraph 2 of subsection L of Section 1635 of
5 this title and the Liquidity Stress Test along with its results and
6 supporting disclosures required under paragraph 3 of subsection L of
7 Section 1635 of this title are regulatory tools for assessing group
8 risks and capital adequacy and group liquidity risks, respectively,
9 and are not intended as a means to rank insurers or insurance
10 holding company systems generally. Therefore, except as otherwise
11 may be required under the provisions of this title, the making,
12 publishing, disseminating, circulating or placing before the public,
13 or causing directly or indirectly to be made, published,
14 disseminated, circulated or placed before the public in a newspaper,
15 magazine or other publication, or in the form of a notice, circular,
16 pamphlet, letter or poster, or over any radio or television station
17 or any electronic means of communication available to the public, or
18 in any other way as an advertisement, announcement or statement
19 containing a representation or statement with regard to the group
20 capital calculation, group capital ratio, the Liquidity Stress Test
21 results, or supporting disclosures for the Liquidity Stress Test of
22 any insurer or any insurer group, or of any component derived in the
23 calculation by an insurer, broker, or other person engaged in any
24 manner in the insurance business would be misleading and is

1 therefore prohibited; provided however, that if any materially false
2 statement with respect to the group capital calculation, resulting
3 group capital ratio, an inappropriate comparison of any amount to an
4 insurer's or insurance group's group capital calculation or
5 resulting group capital ratio, Liquidity Stress Test result,
6 supporting disclosures for the Liquidity Stress Test, or an
7 inappropriate comparison of any amount to an insurer's or insurance
8 group's Liquidity Stress Test result or supporting disclosures is
9 published in any written publication and the insurer is able to
10 demonstrate to the Commissioner with substantial proof the falsity
11 of such statement or the inappropriateness, as the case may be, then
12 the insurer may publish announcements in a written publication if
13 the sole purpose of the announcement is to rebut the materially
14 false statement.

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

16

17 COMMITTEE REPORT BY: COMMITTEE ON COMMERCE AND ECONOMIC DEVELOPMENT
18 OVERSIGHT, dated 03/03/2025 - DO PASS, As Amended.

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