

GENERAL ASSEMBLY OF NORTH CAROLINA
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HOUSE BILL DRH30171-NE-97

Short Title: Maintain NAIC Accreditation of DOI.-AB (Public)

Sponsors: Representative Humphrey.

Referred to:

A BILL TO BE ENTITLED
AN ACT TO MAINTAIN NAIC ACCREDITATION OF THE DEPARTMENT OF
INSURANCE BY IMPLEMENTING GROUP CAPITAL CALCULATION AND
LIQUIDITY STRESS TEST REQUIREMENTS AND TO MAKE VARIOUS
CONFORMING CHANGES, AS RECOMMENDED BY THE DEPARTMENT OF
INSURANCE.

The General Assembly of North Carolina enacts:

**PART I. IMPLEMENT GROUP CAPITAL CALCULATION AND LIQUIDITY STRESS
TEST REQUIREMENTS FOR INSURANCE HOLDING COMPANY SYSTEMS**

SECTION 1. Article 19 of Chapter 58 of the General Statutes is amended by adding
the following new sections to read:

"§ 58-19-26. Group capital calculation.

(a) Reporting Requirement. – The ultimate controlling person of every insurer subject to
registration pursuant to G.S. 58-19-25 shall concurrently file with the registration an annual
group capital calculation report. The report shall be filed with the lead state commissioner.

(b) Exemptions. – The ultimate controlling person of any of the following is exempt from
the filing requirement of subsection (a) of this section:

(1) An insurance holding company system that (i) has only one insurer within its
holding company structure, (ii) only writes insurance business, (iii) is only
licensed in its state of domicile, and (iv) assumes no business from any other
insurer.

(2) An insurance holding company system that is required to perform a group
capital calculation specified by the United States Federal Reserve Board.
When this exemption applies, the lead state commissioner shall request the
calculation from the United States Federal Reserve Board. If the United States
Federal Reserve Board cannot share the calculation with the lead state
commissioner under the terms of any information sharing agreements in
effect, then the insurance holding company system is not exempt from the
group capital calculation filing.

(3) An insurance holding company system whose non-United States group-wide
supervisor is located within a reciprocal jurisdiction that recognizes the United
States state regulatory approach to group supervision and group capital.

(4) An insurance holding company system that meets both of the following
requirements:



* D R H 3 0 1 7 1 - N E - 9 7 *

- 1 a. The insurance holding company system provides information to the
2 lead state commissioner that meets the requirements for accreditation
3 under the NAIC financial standards and accreditation program. The
4 insurance holding company may provide this information either
5 directly or indirectly through its group-wide supervisor. If provided
6 indirectly through a group-wide supervisor, the supervisor is
7 responsible for determining whether the information provided is
8 sufficient to permit the lead state commissioner to comply with the
9 NAIC group supervision approach, as detailed in the NAIC Financial
10 Analysis Handbook.
- 11 b. The insurance holding company system's non-United States
12 group-wide supervisor is not in a reciprocal jurisdiction but
13 nonetheless recognizes the group capital calculation as the worldwide
14 group capital assessment for United States insurance groups who
15 operate in that jurisdiction.
- 16 (c) Recognition of Group Capital Calculation. – For purposes of subdivision (b)(4) of
17 this section, a non-United States jurisdiction recognizes the group capital calculation if it satisfies
18 any of the following criteria:
- 19 (1) A competent regulatory authority in the jurisdiction affirms that insurers and
20 insurance groups whose lead state is accredited by the NAIC under the NAIC
21 accreditation program shall be subject only to worldwide prudential insurance
22 group supervision, including worldwide group governance, solvency and
23 capital, and reporting, as applicable, by that jurisdiction's lead state
24 commissioner and will not be subject to group supervision, including
25 worldwide group governance, solvency and capital, and reporting, at the level
26 of the worldwide parent undertaking of the insurance or reinsurance group by
27 the non-United States jurisdiction.
- 28 (2) A competent regulatory authority in the jurisdiction affirms that information
29 regarding insurers and their parent, subsidiary, or affiliated entities, if
30 applicable, shall be provided to the lead state commissioner in accordance
31 with an information sharing agreement in the form of a memorandum of
32 understanding or similar document. Acceptable information sharing
33 agreements include the International Association of Insurance Supervisors
34 Multilateral Memorandum of Understanding or other multilateral memoranda
35 of understanding coordinated by the NAIC. The jurisdiction does not satisfy
36 this criteria if the lead state commissioner determines, in consultation with the
37 NAIC, that the requirements of the information sharing agreements are no
38 longer in force.
- 39 (3) If no United States insurance groups operate in the non-United States
40 jurisdiction, that non-United States jurisdiction notifies the lead state
41 commissioner and the International Association of Insurance Supervisors in
42 writing that the jurisdiction considers the group capital calculation an
43 acceptable international capital standard.
- 44 (d) Limitation of Exemptions. – Notwithstanding subsection (b) of this section, the lead
45 state commissioner shall require filing of the group capital calculation for United States
46 operations of any non-United States based insurance holding company system if the lead state
47 commissioner determines that the filing is required for (i) prudential oversight and solvency
48 monitoring purposes or (ii) ensuring the competitiveness of the insurance marketplace.
- 49 (e) Consideration and Correction of NAIC Materials. – The lead state commissioner shall
50 consider any relevant lists, reports, and recommendations published by the NAIC in determining
51 whether the exceptions of subdivision (b)(4) of this section apply to an insurer. If the lead state

commissioner's determination differs from relevant materials published by the NAIC, the lead state commissioner shall provide the NAIC with written justification for the difference supported by documentation. If published NAIC materials indicate that a non-United States jurisdiction recognizes the group capital calculation and the lead state commissioner determines that the jurisdiction no longer meets the requirements of subsection (c) of this section, the lead state commissioner may recommend a correction of the materials to the NAIC.

(f) Discretionary Exemptions. – The lead state commissioner may either (i) exempt the ultimate controlling person of an insurance holding company system from the filing requirement of subsection (a) of this section or (ii) authorize the ultimate controlling person of an insurance holding company to file a limited group capital filing in lieu of the filing requirement of subsection (a) of this section if all of the following apply:

- (1) The insurance holding company system has annual direct written and unaffiliated assumed premium, including international direct and assumed premium, but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of less than one billion dollars (\$1,000,000,000).
- (2) The insurance holding company system does not include insurers within its holding company structure that are domiciled outside of the United States or one of its territories.
- (3) The insurance holding company system does not include banking, depository, or other financial entity that is subject to an identified regulatory capital framework within its holding company structure.
- (4) The insurance holding company system attests that there are no material changes in transactions between insurers and non-insurers in the group that have occurred since the last filing of an annual group calculation report, if any.
- (5) The non-insurers within the insurance holding company system do not pose a material financial risk to the insurer's ability to honor policyholder obligations.

(g) Resumption of Filings. – If the lead state commissioner determines that an insurance holding company system exempted from the filing requirements of subsection (a) of this section no longer meets the requirements for an exemption, the insurance holding company system shall file the group capital calculation at the next annual filing date unless given an extension by the lead state commissioner based on reasonable grounds shown. If the lead state commissioner, pursuant to subsection (f) of this section, either grants a discretionary exemption or authorizes a limited group capital filing, the lead state commissioner may require the ultimate controlling person of that insurance holding company system to file an annual group calculation at any time if any of the following apply:

- (1) Any insurer within the insurance holding company system is in a risk-based capital action level event as set forth in Article 12 of this Chapter or a similar standard for a non-United States insurer.
- (2) Any insurer within the insurance holding company system meets one or more of the standards of an insurer deemed to be in hazardous financial condition pursuant to the criteria provided in G.S. 58-30-60.
- (3) Any insurer within the insurance holding company system otherwise exhibits qualities of a troubled insurer as determined by the lead state commissioner based on unique circumstances, including the type and volume of business written, ownership and organizational structure, federal agency requests, and international supervisor requests.

"§ 58-19-27. Liquidity stress test.

(a) Participation and Reporting Requirement. – The ultimate controlling person of every insurer subject to registration pursuant to G.S. 58-19-25 shall be included in the NAIC liquidity

stress test framework and file a report with the lead state commissioner detailing the results of a specific year's liquidity stress test if either of the following applies:

(1) The insurer meets the scope criteria of that data year's NAIC liquidity stress test framework.

(2) The insurer did not meet the scope criteria of that data year's liquidity stress test framework, but the lead state commissioner, in consultation with the NAIC Financial Stability Task Force or its successor, nonetheless determines the insurer should be included in the NAIC liquidity stress test framework for that data year. In making this determination, the lead state commissioner shall attempt to avoid the frequent inclusion or exclusion of insurers.

(b) The performance of, and filing of the results from, a specific year's liquidity stress test shall comply with (i) the NAIC liquidity stress test framework's instructions and reporting templates for that year and (ii) all lead state commissioners' directives issued in consultation with the NAIC Financial Stability Task Force or its successor.

(c) Exemptions. – The lead state commissioner may, in consultation with the NAIC Financial Stability Task Force or its successor, exempt an ultimate controlling person from the reporting requirements of subsection (a) of this section. The lead state commissioner shall consider the intent of regulators to avoid having insurers scoped in and out of the NAIC liquidity stress test framework on a frequent basis when making this determination.

"§ 58-19-28. Dissemination prohibited.

(a) Unless otherwise provided by law, the making, publishing, disseminating, circulating, or placing before the public, or causing directly or indirectly to be made, published, disseminated, circulated, or placed before the public in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station or any electronic means of communication available to the public, or in any other way as an advertisement, announcement, or statement containing a representation or statement with regard to the group capital calculation, group capital ratio, the liquidity stress test results, or supporting disclosures for the liquidity stress test of any insurer or any insurer group, or of any component derived in the calculation by any insurer, broker, or other person engaged in any manner in the insurance business is prohibited.

(b) Notwithstanding subsection (a) of this section, if any materially false statement with respect to the group capital calculation, resulting group capital ratio, an inappropriate comparison of any amount to an insurer's or insurance group's group capital calculation or resulting group capital ratio, liquidity stress test result, supporting disclosures for the liquidity stress test, or an inappropriate comparison of any amount to an insurer's or insurance group's liquidity stress test result, or supporting disclosures is published in any written publication and the insurer is able to demonstrate to the Commissioner with substantial proof the falsity or inappropriateness of the statement, then the insurer may publish announcements in a written publication if the sole purpose of the announcement is to rebut the materially false or inappropriate statement."

PART II. CONFORMING CHANGES

SECTION 2.(a) G.S. 58-19-5 reads as rewritten:

"§ 58-19-5. Definitions.

As used in this Article, unless the context requires otherwise, the following terms have the following meanings:

...

(10a) Group capital calculation. – A report, completed in accordance with the group capital calculation instructions as adopted and amended by the NAIC, used to evaluate the capital adequacy of insurance holding company systems that includes information on the sources of capital within the system, where that capital is located, and sources of risk.

~~(10a)~~(10b) Group-wide supervisor. – The regulatory official authorized to engage in conducting and coordinating group-wide supervision activities who is determined or acknowledged by the Commissioner under G.S. 58-19-38 to have sufficient significant contacts with the internationally active insurance group.

...
(12b) Lead state commissioner. – The person responsible for regulating the insurance holding company system as determined by the Commissioner in accordance with the procedures within the Financial Analysis Handbook adopted by the NAIC.

(12c) Limited group capital filing. – A simplified version of the group capital calculation, completed in accordance with procedures adopted by the NAIC, where an insurance holding company system only provides a limited amount of data, allowing them to avoid the filing of a full group capital calculation.

(12d) Liquidity stress test. – A process simulating extreme market conditions to assess an entity's ability to maintain sufficient liquidity in response to adverse events.

(12e) NAIC. – The National Association of Insurance Commissioners.

(12f) NAIC liquidity stress test framework. – A publication, adopted and amended by the NAIC in accordance with procedures adopted by the NAIC, which includes a history of the NAIC's development of regulatory liquidity stress testing, the scope criteria applicable for a specific data year, and the liquidity stress test instructions and reporting templates for a specific data year.

...
(13a) Reciprocal jurisdiction. – As defined in G.S. 58-7-21(b)(4b).

(13b) Scope criteria. – Designated exposure bases, detailed in the NAIC liquidity stress test framework along with minimum magnitudes thereof for the specified data year, used to establish a preliminary list of insurers included in the NAIC liquidity stress test framework for that data year.

...."

SECTION 2.(b) G.S. 58-19-15 reads as rewritten:

"§ 58-19-15. Acquisition of control of or merger with domestic insurer.

...
(b) The statement to be filed with the Commissioner under subsection (a) of this section shall be furnished on a Form A as prescribed by the Commissioner, made under oath or affirmation, and shall contain the following information:

...
(11a) An agreement by the person required to file the statement referred to in subsection (a) of this section that it will provide the annual report, as specified in G.S. 58-19-25, G.S. 58-19-25(l), for so long as control exists.

...."

SECTION 2.(c) G.S. 58-19-25 reads as rewritten:

"§ 58-19-25. Registration of insurers-insurers; disclaimer of affiliation; enterprise risk filings.

...
(c) No information need be disclosed on the registration statement filed pursuant to subsection (b) of this section if such information is not ~~material for the purposes of this section.~~ Unless the Commissioner by rule or order provides otherwise, all material. For purposes of this section, all sales, purchases, exchanges, loans or extensions of credit, investments, or guarantees involving one-half of one percent ~~(1/2%)~~ (0.5%) or less of an insurer's admitted assets as of the preceding December 31 are not ~~material for the purposes of this section.~~ material, unless the

Commissioner by rule or order provides otherwise. This subsection does not apply to the reporting requirements of G.S. 58-19-26 and G.S. 58-19-27.

...

(l) Effective January 1, 2016, the ultimate controlling person of every insurer subject to registration shall also file an annual enterprise risk report on Form F as prescribed by the Commissioner. The report shall, to the best of the ultimate controlling person's knowledge and belief, identify the material risks within the insurance holding company system that could pose enterprise risk to the insurer. The report shall be filed with the lead state ~~commissioner of the insurance holding company system as determined by the procedures within the Financial Analysis Handbook adopted by the NAIC commissioner.~~

SECTION 2.(d) G.S. 58-19-40 reads as rewritten:

"§ 58-19-40. Confidential treatment.

(a) Documents, materials, or other information in the possession or control of the Department that are obtained by or disclosed to the Commissioner or any other person in the course of an examination or investigation made pursuant to G.S. 58-19-35, and all information reported or provided to the Department pursuant to subdivisions (11a) and (11b) of G.S. 58-19-15(b), G.S. 58-19-25, G.S. 58-19-30 and G.S. 58-19-38 are recognized by this State as being proprietary and to contain trade secrets, and shall be confidential by law and privileged, shall not be considered a public record under either G.S. 58-2-100 or Chapter 132 of the General Statutes, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the Commissioner is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the Commissioner's official duties. The Commissioner shall not otherwise make the documents, materials, or other information public without the prior written consent of the insurer to which it pertains unless the Commissioner, after giving the insurer and its affiliates who would be affected thereby notice and opportunity to be heard, determines that the interest of policyholders, shareholders, or the public will be served by the publication thereof, in which event the Commissioner may publish all or any part of the information in such manner as may be deemed appropriate.

(a1) With respect to information provided to the Department pursuant to G.S. 58-19-26 and G.S. 58-19-27, the Commissioner shall:

- (1) Maintain the confidentiality of the group capital calculation and group capital ratio produced within the calculation and any group capital information received from an insurance holding company system supervised by the Federal Reserve Board or any United States group-wide supervisor.
- (2) Maintain the confidentiality of the liquidity stress test results and supporting disclosures and any liquidity stress test information received from an insurance holding company system supervised by the Federal Reserve Board and non-United States group-wide supervisors.

...

(c) In order to assist in the performance of the duties imposed by this Article, the Commissioner:

- (1) May share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subsection (a) of this section, including proprietary and trade secret documents and materials, with other all of the following:
 - a. Other state, federal, and international regulatory agencies, with the NAIC and its affiliates and subsidiaries, and with state, agencies.
 - b. The NAIC.
 - c. Any third-party consultants designated by the Commissioner.

d. State, federal, and international law enforcement authorities, including members of any supervisory college described in G.S. 58-19-37, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the document, material, or other information and has verified in writing the legal authority to maintain confidentiality.

(2) Notwithstanding subdivision (1) of this subsection, may only share confidential and privileged documents, material, or information reported pursuant to ~~G.S. 58-19-25~~ G.S. 58-19-25(l) with Commissioners of states having statutes or regulations substantially similar to subsection (a) of this section and who have agreed in writing not to disclose such information.

(3) May receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or ~~information~~ information, including proprietary and trade-secret information, from the NAIC and its affiliates and subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information.

(4) Shall enter into written agreements with the NAIC and any third-party consultant designated by the Commissioner governing sharing and use of information provided pursuant to this Article consistent with this subsection that shall do all of the following:

a. Require a recipient to maintain the confidentiality and privileged status of any documents, materials, or information. Specify procedures and protocols regarding the confidentiality and security of information shared with the NAIC and its affiliates and subsidiaries or a third-party consultant designated by the Commissioner pursuant to this Article, including procedures and protocols for sharing by the NAIC with other state, federal, or international regulators; regulators. The agreement shall require a recipient to verify in writing that the recipient has reviewed the legal authority supporting any confidentiality or privilege.

b. Specify that ownership of information shared with the NAIC and its affiliates and subsidiaries or a third-party consultant pursuant to this Article remains with the Commissioner, and the NAIC's use of the information by the NAIC or third-party consultant designated by the Commissioner is subject to the direction of the Commissioner; Commissioner.

c. Prohibit the NAIC or third-party consultant designated by the Commissioner from storing the information shared pursuant to this section in a permanent database after the underlying analysis is completed. This sub-subdivision does not apply to documents, material, or information reported pursuant to G.S. 58-19-27.

e.d. Require prompt notice to be given to an insurer whose confidential information in the possession of the NAIC or a third-party consultant designated by the Commissioner pursuant to this Article is subject to a request or subpoena to the NAIC for disclosure or production; and production.

d.e. Require the NAIC and its affiliates and subsidiaries or a third-party consultant designated by the Commissioner to consent to intervention

1 by an insurer in any judicial or administrative action in which the
2 NAIC ~~and its affiliates and subsidiaries or a third-party consultant~~
3 designated by the Commissioner may be required to disclose
4 confidential information about the insurer shared with the NAIC ~~and~~
5 ~~its affiliates and subsidiaries or a third-party consultant~~ designated by
6 the Commissioner pursuant to Article 19 of this Chapter.

7 f. Require the Commissioner to notify an insurer when documents,
8 materials, or information confidential or privileged to that insurer are
9 shared with a third-party consultant. The notification shall include the
10 identity of the third-party consultant. This sub-subdivision only
11 applies to documents, materials, or information shared pursuant to
12 G.S. 58-19-27.

13 ...

14 (f) Documents, materials, or other information in the possession or control of the NAIC
15 or a third-party consultant designated by the Commissioner pursuant to a requirement of this
16 Article shall be confidential by law and privileged, shall not be considered a public record under
17 G.S. 58-2-100 or Chapter 132 of the General Statutes, shall not be subject to subpoena, and shall
18 not be subject to discovery or admissible in evidence in any private civil action."
19

20 PART III. EFFECTIVE DATE

21 SECTION 3. This act becomes effective January 1, 2026.