

1 ENGROSSED HOUSE  
2 BILL NO. 1497

3 By: Tedford of the House

4 and

5 Reinhardt of the Senate

6

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20       b. meets the following criteria:

- 21           (1) premiums written in at least three countries,  
22           (2) the percentage of gross premiums written outside  
23           the United States is at least ten percent (10%)

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

(3) based on a three-year rolling average, the total assets of the insurance holding company system are at least Fifty Billion Dollars

( $\$50,000,000,000.00$ ) or the total gross written premiums of the insurance holding company system are at least Ten Billion Dollars

**(\$10,000,000,000.00) ;**

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

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

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

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

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

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

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

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

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

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

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

11             1. This section;

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

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

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

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

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

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

- 1       3. The following agreements in force, and transactions  
2 currently outstanding or which have occurred during the last  
3 calendar year between the insurer and its affiliates:  
  
4           a. loans, other investments, or purchases, sales or  
5            exchanges of securities of the affiliates by the  
6            insurer or of the insurer by its affiliates,  
  
7           b. purchases, sales or exchange of assets,  
  
8           c. transactions not in the ordinary course of business,  
  
9           d. guarantees or undertakings for the benefit of an  
10          affiliate which result in an actual contingent  
11          exposure of the insurer's assets to liability, other  
12          than insurance contracts entered into in the ordinary  
13          course of the insurer's business,  
  
14          e. all management agreements, service contracts and all  
15          cost-sharing arrangements,  
  
16          f. reinsurance agreements,  
  
17          g. dividends and other distributions to shareholders, and  
18          h. consolidated tax allocation agreements;  
  
19        4. Any pledge of the insurer's stock, including stock of any  
20 subsidiary or controlling affiliate, for a loan made to any member  
21 of the insurance holding company system;  
  
22        5. If requested by the Commissioner, the insurer shall include  
23 financial statements of or within an insurance holding company  
24 system, including all affiliates. Financial statements may include

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

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

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

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

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

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

24 Unless the Commissioner by rule, regulation or order provides

1 otherwise, sales, purchases, exchanges, loans or extensions of  
2 credit, investments, or guarantees involving one-half of one percent  
3 (.5%) or less of an insurer's admitted assets as of December 31 next  
4 preceding shall not be deemed material for purposes of this section.

5 The definition of materiality provided in this subsection shall not  
6 apply for purposes of the Group Capital Calculation Instructions or  
7 the Liquidity Stress Test Framework.

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

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

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

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

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

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

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

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

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

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

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

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

- 1           b. an insurance holding company system that is required  
2           to perform a group capital calculation specified by  
3           the United States Federal Reserve Board. The lead  
4           state Commissioner shall request the calculation from  
5           the Federal Reserve Board under the terms of  
6           information sharing agreements in effect. If the  
7           Federal Reserve Board cannot share the calculation  
8           with the lead state Commissioner, the insurance  
9           holding company system is not exempt from the group  
10           capital calculation filing,
- 11           c. an insurance holding company system whose non-United-  
12           States group-wide supervisor is located within a  
13           reciprocal jurisdiction as described in Section 5122  
14           of Title 36 of the Oklahoma Statutes that recognizes  
15           the United States state regulatory approach to group  
16           supervision and group capital,
- 17           d. an insurance holding company system:
- 18           (1) that provides information to the lead state that  
19           meets the requirements for accreditation under  
20           the NAIC financial standards and accreditation  
21           program, either directly or indirectly through  
22           the group-wide supervisor, who has determined  
23           such information is satisfactory to allow the  
24           lead state to comply with the NAIC group

supervision approach, as detailed in the NAIC

## Financial Analysis Handbook, and

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

- e. notwithstanding the provisions of subparagraphs c and d of paragraph 2 of subsection L of this section, a lead state Commissioner shall require the group capital calculation for U.S. operations of any non-United-States-based insurance holding company system where, after any necessary consultation with other supervisors or officials, it is deemed appropriate by the lead state Commissioner for prudential oversight and solvency monitoring purposes or for ensuring the competitiveness of the insurance marketplace,
  - f. notwithstanding the exemptions from filing the group capital calculation stated in subparagraphs a through d of paragraph 2 of subsection L of this section, the lead state Commissioner has the discretion to exempt the ultimate controlling person from filing the annual

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 permanent database after the underlying analysis is  
2 completed,

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

10 d.

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

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

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

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

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

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

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

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

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 of such statement or the inappropriateness, as the case may be, then the insurer may publish announcements in a written publication if the sole purpose of the announcement is to rebut the materially false statement.

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

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

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Presiding Officer of the House  
of Representatives

Passed the Senate the              day of              , 2025.

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Presiding Officer of the Senate