

**Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 24-0711.01 Kristen Forrestal x4217

HOUSE BILL 24-1321

HOUSE SPONSORSHIP

Brown and Taggart,

SENATE SPONSORSHIP

(None),

House Committees
Business Affairs & Labor

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING ALIGNING THE COLORADO STATUTES WITH THE**
102 **NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS'**
103 **FINANCIAL MODEL LAWS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill updates Colorado state laws concerning insurance company holding systems to align with the National Association of Insurance Commissioners' model act. The changes include updating:

- The registration requirements for the ultimate controlling person of each insurer by adding new filing requirements

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

- to be included with the division of insurance's (division) existing registration requirements;
- The standards for insurance holding company transactions subject to registration with the division;
 - Language concerning the confidential treatment of documents to include proprietary and trade secret documents and materials; and
 - The regulatory tools that the division may use for the regulation of insurance holding companies.
- The bill also makes technical amendments.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 10-3-801, **add** (4.3),
3 (7.5), and (8.5) as follows:

4 **10-3-801. Definitions.** As used in this part 8, unless the context
5 otherwise requires:

6 **■ ■**
7 (4.3) "GROUP CAPITAL CALCULATION INSTRUCTIONS" MEANS THE
8 GROUP CAPITAL CALCULATION INSTRUCTIONS ADOPTED AND AMENDED BY
9 THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS.

10 **■**
11 (7.5) "NAIC LIQUIDITY STRESS TEST FRAMEWORK" OR
12 "FRAMEWORK" MEANS THE NAIC PUBLICATION THAT INCLUDES A HISTORY
13 OF THE NAIC'S DEVELOPMENT OF REGULATORY LIQUIDITY STRESS
14 TESTING, THE SCOPE CRITERIA APPLICABLE FOR A SPECIFIC DATA YEAR,
15 AND THE LIQUIDITY STRESS TEST INSTRUCTIONS AND REPORTING
16 TEMPLATES FOR A SPECIFIC DATA YEAR, AS ADOPTED BY THE NAIC, AND
17 AS AMENDED FROM TIME TO TIME BY THE NAIC, IN ACCORDANCE WITH
18 THE PROCEDURES ADOPTED BY THE NAIC.

19 (8.5) "SCOPE CRITERIA" MEANS THE DESIGNATED EXPOSURE BASES,
20 ALONG WITH MINIMUM MAGNITUDES OF EXPOSURE BASES FOR THE

1 SPECIFIED DATA YEAR, USED TO ESTABLISH A PRELIMINARY LIST OF
2 INSURERS CONSIDERED SCOPED INTO THE NAIC LIQUIDITY STRESS TEST
3 FRAMEWORK FOR THAT DATA YEAR.

4 **SECTION 2.** In Colorado Revised Statutes, 10-3-804, **amend**
5 (12) as follows:

6 **10-3-804. Registration of insurers.** (12) (a) The ultimate
7 controlling person of every insurer subject to registration shall also file
8 an annual enterprise risk report. The report must, to the best of the
9 ultimate controlling person's knowledge and belief, identify the material
10 risks within the insurance holding company system that could pose
11 enterprise risk to the insurer. The controlling person shall file the report
12 with the lead state commissioner of the insurance holding company
13 system as determined by the procedures within the financial analysis
14 handbook adopted by the NAIC.

15 (b) EXCEPT AS PROVIDED IN SUBSECTIONS (12)(b)(I) TO
16 (12)(b)(IV) AND (12)(c) TO (12)(e) OF THIS SECTION, THE ULTIMATE
17 CONTROLLING PERSON OF EACH INSURER SUBJECT TO REGISTRATION SHALL
18 CONCURRENTLY FILE WITH THE REGISTRATION AN ANNUAL GROUP CAPITAL
19 CALCULATION AS DIRECTED BY THE LEAD STATE COMMISSIONER. THE
20 REPORT MUST BE COMPLETED IN ACCORDANCE WITH THE NAIC GROUP
21 CAPITAL CALCULATION INSTRUCTIONS, WHICH MAY PERMIT THE LEAD
22 STATE COMMISSIONER TO ALLOW A CONTROLLING PERSON THAT IS NOT
23 THE ULTIMATE CONTROLLING PERSON TO FILE THE GROUP CAPITAL
24 CALCULATION. THE REPORT MUST BE FILED WITH THE LEAD STATE
25 COMMISSIONER OF THE INSURANCE HOLDING COMPANY SYSTEM AS
26 DIRECTED BY THE LEAD STATE COMMISSIONER IN ACCORDANCE WITH THE
27 PROCEDURES WITHIN THE FINANCIAL ANALYSIS HANDBOOK ADOPTED BY

1 THE NAIC. THE FOLLOWING INSURANCE HOLDING COMPANY SYSTEMS ARE
2 EXEMPT FROM FILING THE GROUP CAPITAL CALCULATION:

3 (I) AN INSURANCE HOLDING COMPANY SYSTEM THAT HAS ONLY
4 ONE INSURER WITHIN ITS HOLDING COMPANY STRUCTURE, THAT ONLY
5 WRITES BUSINESS, AND IS ONLY LICENSED IN ITS DOMESTIC STATE AND
6 ASSUMES NO BUSINESS FROM ANY OTHER INSURER;

7 (II) AN INSURANCE HOLDING COMPANY SYSTEM THAT IS REQUIRED
8 TO PERFORM A GROUP CAPITAL CALCULATION SPECIFIED BY THE UNITED
9 STATES FEDERAL RESERVE BOARD. THE LEAD STATE COMMISSIONER SHALL
10 REQUEST THE CALCULATION FROM THE FEDERAL RESERVE BOARD UNDER
11 THE TERMS OF INFORMATION SHARING AGREEMENTS IN EFFECT. IF THE
12 FEDERAL RESERVE BOARD CANNOT SHARE THE CALCULATION WITH THE
13 LEAD STATE COMMISSIONER, THE INSURANCE HOLDING COMPANY SYSTEM
14 IS NOT EXEMPT FROM THE GROUP CAPITAL CALCULATION FILING.

15 (III) AN INSURANCE HOLDING COMPANY SYSTEM WHOSE
16 NON-UNITED STATES GROUP-WIDE SUPERVISOR IS LOCATED WITHIN A
17 RECIPROCAL JURISDICTION AS DESCRIBED IN SECTION 10-3-702 THAT
18 RECOGNIZES THE UNITED STATES' STATE REGULATORY APPROACH TO
19 GROUP SUPERVISION AND GROUP CAPITAL;

20 (IV) AN INSURANCE HOLDING COMPANY SYSTEM:

21 (A) THAT PROVIDES INFORMATION TO THE LEAD STATE
22 COMMISSIONER THAT MEETS THE REQUIREMENTS FOR ACCREDITATION
23 UNDER THE NAIC FINANCIAL STANDARDS AND ACCREDITATION PROGRAM,
24 EITHER DIRECTLY OR INDIRECTLY THROUGH THE GROUP-WIDE SUPERVISOR,
25 WHO HAS DETERMINED SUCH INFORMATION IS SATISFACTORY TO ALLOW
26 THE LEAD STATE COMMISSIONER TO COMPLY WITH THE NAIC GROUP
27 SUPERVISION APPROACH, AS DETAILED IN THE NAIC FINANCIAL ANALYSIS

1 HANDBOOK; AND

2 (B) WHOSE NON-UNITED STATES GROUP-WIDE SUPERVISOR THAT
3 IS NOT IN A RECIPROCAL JURISDICTION RECOGNIZES AND ACCEPTS, AS
4 SPECIFIED BY THE LEAD STATE COMMISSIONER IN REGULATION, THE GROUP
5 CAPITAL CALCULATION AS THE WORLD-WIDE GROUP CAPITAL ASSESSMENT
6 FOR UNITED STATES INSURANCE GROUPS THAT OPERATE IN THAT
7 JURISDICTION.

8 (c) NOTWITHSTANDING SUBSECTIONS (12)(b)(III) AND
9 (12)(b)(IV) OF THIS SECTION AND THIS SUBSECTION (12)(c), THE LEAD
10 STATE COMMISSIONER SHALL REQUIRE THE GROUP CAPITAL CALCULATION
11 FOR UNITED STATES OPERATIONS OF ANY NON-UNITED-STATES-BASED
12 INSURANCE HOLDING COMPANY SYSTEM WHERE, AFTER ANY NECESSARY
13 CONSULTATION WITH OTHER SUPERVISORS OR OFFICIALS, IT IS DEEMED
14 APPROPRIATE BY THE LEAD STATE COMMISSIONER FOR PRUDENTIAL
15 OVERSIGHT AND SOLVENCY MONITORING PURPOSES OR FOR ENSURING THE
16 COMPETITIVENESS OF THE INSURANCE MARKETPLACE.

17 (d) NOTWITHSTANDING THE EXEMPTIONS FROM FILING THE GROUP
18 CAPITAL CALCULATION STATED IN SUBSECTIONS (12)(b)(I) TO (12)(b)(IV)
19 OF THIS SECTION, THE LEAD STATE COMMISSIONER MAY EXEMPT THE
20 ULTIMATE CONTROLLING PERSON FROM FILING THE ANNUAL GROUP
21 CAPITAL CALCULATION OR TO ACCEPT A LIMITED GROUP CAPITAL FILING
22 OR REPORT IN ACCORDANCE WITH CRITERIA AS SPECIFIED BY THE
23 REGULATIONS PROMULGATED BY THE LEAD STATE COMMISSIONER.

24 (e) IF THE LEAD STATE COMMISSIONER DETERMINES THAT AN
25 INSURANCE HOLDING COMPANY SYSTEM NO LONGER MEETS ONE OR MORE
26 OF THE REQUIREMENTS FOR AN EXEMPTION FROM FILING THE GROUP
27 CAPITAL CALCULATION UNDER THIS SECTION, THE INSURANCE HOLDING

1 COMPANY SYSTEM MUST FILE THE GROUP CAPITAL CALCULATION AT THE
2 NEXT ANNUAL FILING DATE UNLESS GIVEN AN EXTENSION BY THE LEAD
3 STATE COMMISSIONER BASED ON REASONABLE GROUNDS SHOWN.

4 (f) (I) THE ULTIMATE CONTROLLING PERSON OF AN INSURER
5 SUBJECT TO REGISTRATION AND ALSO SCOPED INTO THE NAIC LIQUIDITY
6 STRESS TEST FRAMEWORK SHALL FILE THE RESULTS OF A SPECIFIC YEAR'S
7 LIQUIDITY STRESS TEST. THE FILING MUST BE MADE TO THE LEAD STATE
8 COMMISSIONER OF THE INSURANCE HOLDING COMPANY SYSTEM AS
9 DETERMINED BY THE PROCEDURES WITHIN THE FINANCIAL ANALYSIS
10 HANDBOOK ADOPTED BY THE NAIC.

11 (II) (A) THE NAIC LIQUIDITY STRESS TEST FRAMEWORK INCLUDES
12 SCOPE CRITERIA APPLICABLE TO A SPECIFIC DATA YEAR. AT LEAST
13 ANNUALLY, THE FINANCIAL STABILITY TASK FORCE OR ITS SUCCESSOR
14 SHALL REVIEW THE SCOPE CRITERIA. ANY CHANGE TO THE NAIC
15 LIQUIDITY STRESS TEST FRAMEWORK OR TO THE DATA YEAR FOR WHICH
16 THE SCOPE CRITERIA ARE TO BE MEASURED TAKES EFFECT ON JANUARY 1
17 OF THE YEAR FOLLOWING THE CALENDAR YEAR WHEN SUCH CHANGES ARE
18 ADOPTED. INSURERS MEETING AT LEAST ONE THRESHOLD OF THE SCOPE
19 CRITERIA ARE CONSIDERED SCOPED INTO THE NAIC LIQUIDITY STRESS
20 TEST FRAMEWORK FOR THE SPECIFIED DATA YEAR UNLESS THE LEAD STATE
21 COMMISSIONER, IN CONSULTATION WITH THE NAIC FINANCIAL STABILITY
22 TASK FORCE OR ITS SUCCESSOR, DETERMINES THE INSURER SHOULD NOT
23 BE SCOPED INTO THE NAIC LIQUIDITY STRESS TEST FRAMEWORK FOR THAT
24 DATA YEAR. SIMILARLY, INSURERS THAT DO NOT TRIGGER AT LEAST ONE
25 THRESHOLD OF THE SCOPE CRITERIA ARE CONSIDERED SCOPED OUT OF THE
26 NAIC LIQUIDITY STRESS TEST FRAMEWORK FOR THE SPECIFIED DATA
27 YEAR, UNLESS THE LEAD STATE COMMISSIONER, IN CONSULTATION WITH

1 THE NAIC FINANCIAL STABILITY TASK FORCE OR ITS SUCCESSOR,
2 DETERMINES THE INSURER SHOULD BE SCOPED INTO THE FRAMEWORK FOR
3 THAT DATA YEAR.

4 (B) AS PART OF THE DETERMINATION FOR AN INSURER, THE LEAD
5 STATE INSURANCE COMMISSIONER, IN CONSULTATION WITH THE FINANCIAL
6 STABILITY TASK FORCE OR ITS SUCCESSOR, SHALL ASSESS A REGULATOR'S
7 DESIRE TO AVOID HAVING INSURERS SCOPED IN AND OUT OF THE NAIC
8 LIQUIDITY STRESS TEST FRAMEWORK ON A FREQUENT BASIS.

9 (III) THE PERFORMANCE OF, AND FILING OF THE RESULTS FROM, A
10 SPECIFIC YEAR'S LIQUIDITY STRESS TEST MUST COMPLY WITH THE NAIC
11 LIQUIDITY STRESS TEST FRAMEWORK'S INSTRUCTIONS AND REPORTING
12 TEMPLATES FOR THAT YEAR AND ANY LEAD STATE INSURANCE
13 COMMISSIONER DETERMINATIONS, IN CONJUNCTION WITH THE NAIC
14 FINANCIAL STABILITY TASK FORCE OR ITS SUCCESSOR, PROVIDED WITHIN
15 THE FRAMEWORK.

16 **SECTION 3.** In Colorado Revised Statutes, 10-3-805, **amend**
17 **(1)(a)(V); and add (1)(a)(VII), (1)(a)(VIII), (1)(a)(IX), (1)(h), and (4) as**
18 **follows:**

19 **10-3-805. Standards and management of an insurer within an**
20 **insurance holding company system - rules. (1) Transactions within**
21 **an insurance holding company system. (a) Transactions within an**
22 **insurance holding company system to which an insurer subject to**
23 **registration is a party are subject to the following standards:**

24 (V) The books, accounts, and records of each party to all such
25 transactions shall be so maintained as to clearly and accurately disclose
26 the nature and details of the transactions, including such accounting
27 information as is necessary to support the reasonableness of the charges

1 or fees to the respective parties; and

2 (VII) (A) IF AN INSURER SUBJECT TO THIS ARTICLE 3 IS DEEMED BY
3 THE COMMISSIONER TO BE IN A HAZARDOUS FINANCIAL CONDITION, AS
4 DEFINED BY RULE OF THE COMMISSIONER, OR A CONDITION THAT WOULD
5 BE GROUNDS FOR SUPERVISION, CONSERVATION, OR A DELINQUENCY
6 PROCEEDING, THEN THE COMMISSIONER MAY REQUIRE THE INSURER TO
7 SECURE AND MAINTAIN EITHER A DEPOSIT, HELD BY THE COMMISSIONER,
8 OR A BOND, AS DETERMINED BY THE INSURER AT THE INSURER'S
9 DISCRETION, FOR THE PROTECTION OF THE INSURER FOR THE DURATION OF
10 THE CONTRACT OR AGREEMENT, OR THE EXISTENCE OF THE CONDITION FOR
11 WHICH THE COMMISSIONER REQUIRED THE DEPOSIT OR THE BOND.

12 (B) IN DETERMINING WHETHER A DEPOSIT OR A BOND IS REQUIRED,
13 THE COMMISSIONER SHALL CONSIDER WHETHER CONCERNS EXIST WITH
14 RESPECT TO THE AFFILIATED PERSON'S ABILITY TO FULFILL A CONTRACT OR
15 AGREEMENT IF THE INSURER WERE TO BE PUT INTO LIQUIDATION. ONCE
16 THE INSURER IS DEEMED TO BE IN A HAZARDOUS FINANCIAL CONDITION OR
17 A CONDITION THAT WOULD BE GROUNDS FOR SUPERVISION,
18 CONSERVATION, OR A DELINQUENCY PROCEEDING, AND A DEPOSIT OR
19 BOND IS NECESSARY, THE COMMISSIONER MAY DETERMINE THE AMOUNT
20 OF THE DEPOSIT OR BOND, NOT TO EXCEED THE VALUE OF A CONTRACT OR
21 AGREEMENT IN ANY ONE YEAR, AND WHETHER SUCH DEPOSIT OR BOND
22 SHOULD BE REQUIRED FOR A SINGLE CONTRACT, MULTIPLE CONTRACTS, OR
23 A CONTRACT ONLY WITH A SPECIFIC PERSON.

24 (VIII) THE RECORDS AND DATA OF THE INSURER HELD BY AN
25 AFFILIATE ARE AND REMAIN THE PROPERTY OF THE INSURER AND ARE
26 SUBJECT TO CONTROL OF THE INSURER. THE AFFILIATE SHALL ENSURE
27 THAT THE RECORDS AND DATA ARE IDENTIFIABLE AND ARE SEGREGATED

1 OR READILY CAPABLE OF SEGREGATION, AT NO ADDITIONAL COST TO THE
2 INSURER, FROM ALL OTHER PERSONS' RECORDS AND DATA. THIS INCLUDES
3 ALL RECORDS AND DATA THAT ARE OTHERWISE THE PROPERTY OF THE
4 INSURER, IN WHATEVER FORM MAINTAINED, INCLUDING CLAIMS AND
5 CLAIM FILES, POLICYHOLDER LISTS, APPLICATION FILES, LITIGATION FILES,
6 PREMIUM RECORDS, RATE BOOKS, UNDERWRITING MANUALS, PERSONNEL
7 RECORDS, FINANCIAL RECORDS, OR SIMILAR RECORDS WITHIN THE
8 POSSESSION, CUSTODY, OR CONTROL OF THE AFFILIATE. AT THE REQUEST
9 OF THE INSURER, THE AFFILIATE SHALL PERMIT THE RECEIVER TO OBTAIN
10 A COMPLETE SET OF ALL RECORDS OF ANY TYPE THAT PERTAIN TO THE
11 INSURER'S BUSINESS, OBTAIN ACCESS TO THE OPERATING SYSTEMS ON
12 WHICH THE DATA IS MAINTAINED, OBTAIN THE SOFTWARE THAT RUNS THE
13 OPERATING SYSTEMS EITHER THROUGH ASSUMPTION OF LICENSING
14 AGREEMENTS OR OTHERWISE, AND RESTRICT THE USE OF THE DATA BY THE
15 AFFILIATE IF THE RECEIVER OR THE AFFILIATE IS NOT OPERATING THE
16 INSURER'S BUSINESS. THE AFFILIATE SHALL PROVIDE A WAIVER OF ANY
17 LANDLORD LIEN OR OTHER ENCUMBRANCE TO GIVE THE INSURER ACCESS
18 TO ALL RECORDS AND DATA IN THE EVENT OF THE AFFILIATE'S DEFAULT
19 UNDER A LEASE OR OTHER AGREEMENT.

20 (IX) A PREMIUM OR OTHER MONEY BELONGING TO THE INSURER
21 THAT IS COLLECTED BY OR HELD BY AN AFFILIATE IS THE EXCLUSIVE
22 PROPERTY OF THE INSURER AND IS SUBJECT TO THE CONTROL OF THE
23 INSURER. ANY RIGHT OF OFFSET IN THE EVENT AN INSURER IS PLACED INTO
24 RECEIVERSHIP IS SUBJECT TO PART 5 OF THIS ARTICLE 3.

25 (h) (I) AN AFFILIATE THAT IS PARTY TO AN AGREEMENT OR
26 CONTRACT WITH A DOMESTIC INSURER THAT IS SUBJECT TO SUBSECTION
27 (1)(b)(IV) OF THIS SECTION IS SUBJECT TO THE JURISDICTION OF ANY

1 SUPERVISION, SEIZURE, CONSERVATORSHIP, OR RECEIVERSHIP
2 PROCEEDINGS AGAINST THE INSURER AND TO THE AUTHORITY OF ANY
3 SUPERVISOR, CONSERVATOR, REHABILITATOR, OR LIQUIDATOR FOR THE
4 INSURER APPOINTED PURSUANT TO SUPERVISION AND RECEIVERSHIP ACTS
5 FOR THE PURPOSE OF INTERPRETING, ENFORCING, AND OVERSEEING THE
6 AFFILIATE'S OBLIGATIONS UNDER THE AGREEMENT OR CONTRACT TO
7 PERFORM SERVICES FOR THE INSURER THAT:

8 (A) ARE AN INTEGRAL PART OF THE INSURER'S OPERATIONS,
9 INCLUDING MANAGEMENT, ADMINISTRATION, ACCOUNTING, DATA
10 PROCESSING, MARKETING, UNDERWRITING, CLAIMS HANDLING,
11 INVESTMENT, OR ANY OTHER SIMILAR FUNCTIONS; OR

12 (B) ARE ESSENTIAL TO THE INSURER'S ABILITY TO FULFILL ITS
13 OBLIGATIONS UNDER ITS INSURANCE POLICIES.

14 (II) THE COMMISSIONER MAY REQUIRE THAT AN AGREEMENT OR
15 CONTRACT PURSUANT TO SUBSECTION (1)(b)(IV) OF THIS SECTION FOR THE
16 PROVISION OF SERVICES DESCRIBED IN SUBSECTION (1)(h)(I) OF THIS
17 SECTION SPECIFY THAT THE AFFILIATE CONSENTS TO THE JURISDICTION AS
18 SET FORTH IN THIS SUBSECTION (1)(h).

19 (4) THE COMMISSIONER MAY PROMULGATE RULES TO IMPLEMENT
20 THIS SECTION.

21 **SECTION 4.** In Colorado Revised Statutes, 10-3-808, **amend** (1),
22 (3)(a), (3)(c), (3)(d), and (6); and **add** (7) as follows:

23 **10-3-808. Confidential treatment.** (1) (a) Documents, materials,
24 or other information in the possession or control of the division that are
25 obtained by or disclosed to the commissioner or any other person in the
26 course of an examination or investigation made pursuant to section
27 10-3-806 and all information reported pursuant to section 10-3-803 (2)(l)

1 and (2)(m), 10-3-804, or 10-3-805 ARE PROPRIETARY AND CONTAIN
2 TRADE SECRETS AND are confidential by law and privileged; are not
3 subject to the "Colorado Open Records Act", part 2 of article 72 of title
4 24; ~~C.R.S.~~, are not subject to subpoena; and are not subject to discovery
5 or admissible in evidence in any private civil action. However, the
6 commissioner is authorized to use the documents, materials, or other
7 information in the furtherance of any regulatory or legal action brought
8 as a part of the commissioner's official duties. The commissioner shall not
9 otherwise make the documents, materials, or other information public
10 without the prior written consent of the insurer to which they pertain
11 unless the commissioner, after giving the insurer and its affiliates who
12 would be affected notice and opportunity to be heard, determines that the
13 interest of policyholders, shareholders, or the public will be served by the
14 publication, in which event the commissioner may publish all or any part
15 OF THE DOCUMENTS, MATERIALS, OR OTHER INFORMATION in such manner
16 as the commissioner deems appropriate.

17 (b) FOR PURPOSES OF THE INFORMATION REPORTED AND PROVIDED
18 TO THE DIVISION PURSUANT TO SECTION 10-3-804 (12)(b), THE
19 COMMISSIONER SHALL MAINTAIN THE CONFIDENTIALITY OF THE GROUP
20 CAPITAL CALCULATION AND GROUP CAPITAL RATIO PRODUCED WITHIN THE
21 CALCULATION AND ANY GROUP CAPITAL INFORMATION RECEIVED FROM AN
22 INSURANCE HOLDING COMPANY SUPERVISED BY THE FEDERAL RESERVE
23 BOARD OR ANY UNITED STATES GROUP-WIDE SUPERVISOR.

24 (c) FOR THE PURPOSES OF THE INFORMATION REPORTED AND
25 PROVIDED TO THE DIVISION PURSUANT TO SECTION 10-3-804 (12)(f), THE
26 COMMISSIONER SHALL MAINTAIN THE CONFIDENTIALITY OF THE LIQUIDITY
27 STRESS TEST RESULTS AND SUPPORTING DISCLOSURES AND ANY LIQUIDITY

1 STRESS TEST INFORMATION RECEIVED FROM AN INSURANCE HOLDING
2 COMPANY SUPERVISED BY THE FEDERAL RESERVE BOARD AND
3 NON-UNITED STATES GROUP-WIDE SUPERVISORS.

4 (3) In order to assist in the performance of the commissioner's
5 duties, the commissioner:

6 (a) May share documents, materials, or other information,
7 including the confidential and privileged documents, materials, or
8 information subject to subsection (1) of this section AND PROPRIETARY
9 AND TRADE SECRET DOCUMENTS AND MATERIALS, with other state,
10 federal, and international regulatory agencies, with the NAIC, ~~and its~~
11 ~~affiliates and subsidiaries~~ WITH ANY THIRD-PARTY CONSULTANTS
12 DESIGNATED BY THE COMMISSIONER, and with state, federal, and
13 international law enforcement authorities, including members of ~~any~~ A
14 supervisory college described in section 10-3-807, if the recipient agrees
15 in writing to maintain the confidentiality and privileged status of the
16 document, material, or other information OR PROPRIETARY AND TRADE
17 SECRET DOCUMENT AND MATERIAL and has verified in writing the legal
18 authority to maintain confidentiality;

19 (c) May receive documents, materials, or information, including
20 otherwise confidential and privileged documents, materials, or
21 information AND PROPRIETARY AND TRADE SECRET INFORMATION, from
22 the NAIC and its affiliates and subsidiaries and from regulatory and law
23 enforcement officials of other foreign or domestic jurisdictions, and shall
24 maintain as confidential or privileged any document, material, or
25 information OR PROPRIETARY AND TRADE SECRET DOCUMENTS AND
26 MATERIALS received with notice or the understanding that it is
27 confidential or privileged under the laws of the jurisdiction that is the

1 source of the document, material, or information OR PROPRIETARY AND
2 TRADE SECRET DOCUMENT AND MATERIAL; and

3 (d) Shall enter into written agreements with the NAIC AND ANY
4 THIRD-PARTY CONSULTANT DESIGNATED BY THE COMMISSIONER
5 governing the sharing and use of information provided pursuant to this
6 part 8 consistent with this subsection (3) that must:

7 (I) Specify procedures and protocols regarding the confidentiality
8 and security of information shared with the NAIC ~~and its affiliates and~~
9 ~~subsidiaries~~ OR A THIRD-PARTY CONSULTANT DESIGNATED BY THE
10 COMMISSIONER pursuant to this part 8, including procedures and protocols
11 for sharing by the NAIC with other state, federal, or international
12 regulators. THE AGREEMENT MUST STATE THAT THE RECIPIENT AGREES TO
13 MAINTAIN THE CONFIDENTIALITY AND PRIVILEGED STATUS OF THE
14 DOCUMENTS, MATERIALS, OR OTHER INFORMATION OR PROPRIETARY AND
15 TRADE SECRET DOCUMENTS AND MATERIALS AND HAS VERIFIED IN
16 WRITING THE LEGAL AUTHORITY TO MAINTAIN SUCH CONFIDENTIALITY.

17 (II) Specify that ownership of information shared with the NAIC
18 ~~and its affiliates and subsidiaries~~ OR A THIRD-PARTY CONSULTANT
19 pursuant to this part 8 remains with the commissioner and that the NAIC's
20 ~~use of the information~~ USE OF THE INFORMATION BY THE NAIC OR THE
21 THIRD-PARTY CONSULTANT AS DESIGNATED BY THE COMMISSIONER is
22 subject to the direction of the commissioner;

23 (II.5) EXCLUDING DOCUMENTS, MATERIAL, OR INFORMATION
24 REPORTED PURSUANT TO SECTION 10-3-804 (12)(f), PROHIBIT THE NAIC
25 OR A THIRD-PARTY CONSULTANT DESIGNATED BY THE COMMISSIONER
26 FROM STORING THE INFORMATION SHARED PURSUANT TO THIS SECTION IN
27 A PERMANENT DATABASE AFTER THE UNDERLYING ANALYSIS IS

1 COMPLETED.

2 (III) Require prompt notice to be given to an insurer whose
3 confidential information in the possession of the NAIC OR THIRD-PARTY
4 CONSULTANT DESIGNATED BY THE COMMISSIONER pursuant to this part 8
5 is subject to a request or subpoena to the NAIC OR THIRD-PARTY
6 CONSULTANT DESIGNATED BY THE COMMISSIONER for disclosure or
7 production; and

8 (IV) Require the NAIC ~~and its affiliates and subsidiaries~~ OR A
9 THIRD-PARTY CONSULTANT DESIGNATED BY THE COMMISSIONER to
10 consent to intervention by an insurer in any judicial or administrative
11 action in which the NAIC ~~and its affiliates and subsidiaries~~ OR A
12 THIRD-PARTY CONSULTANT DESIGNATED BY THE COMMISSIONER may be
13 required to disclose confidential information about the insurer shared with
14 the NAIC ~~and its affiliates and subsidiaries~~ OR A THIRD-PARTY
15 CONSULTANT DESIGNATED BY THE COMMISSIONER pursuant to this part 8;
16 AND

17 (V) FOR DOCUMENTS, MATERIAL, OR INFORMATION REPORTED
18 PURSUANT TO SECTION 10-3-804 (12)(f), WHERE THERE IS AN AGREEMENT
19 INVOLVING A THIRD-PARTY CONSULTANT, PROVIDE FOR NOTIFICATION OF
20 THE IDENTITY OF THE CONSULTANT TO THE APPLICABLE INSURERS.

21 (6) Documents, materials, or other information OR PROPRIETARY
22 AND TRADE SECRET DOCUMENTS AND MATERIALS in the possession or
23 control of the NAIC OR A THIRD-PARTY CONSULTANT DESIGNATED BY THE
24 COMMISSIONER pursuant to this part 8 are confidential by law and
25 privileged; are not subject to the "Colorado Open Records Act", part 2 of
26 article 72 of title 24; ~~C.R.S.~~, are not subject to subpoena; and are not
27 subject to discovery or admissible in evidence in any private civil action.

1 (7) (a) THE GROUP CAPITAL CALCULATION AND RESULTING GROUP
2 CAPITAL RATIO REQUIRED BY SECTION 10-3-804 (12)(b) AND THE
3 LIQUIDITY STRESS TEST ALONG WITH ITS RESULTS AND SUPPORTING
4 DISCLOSURES REQUIRED BY SECTION 10-3-804 (12)(f) ARE REGULATORY
5 TOOLS FOR ASSESSING GROUP RISKS AND CAPITAL ADEQUACY AND GROUP
6 LIQUIDITY RISKS, RESPECTIVELY, AND ARE NOT INTENDED AS A MEANS TO
7 RANK INSURERS OR INSURANCE HOLDING COMPANY SYSTEMS GENERALLY.

8 (b) (I) EXCEPT AS PROVIDED IN SUBSECTION (7)(b)(II) OF THIS
9 SECTION, ANY INSURER, BROKER, OR OTHER PERSON ENGAGED IN ANY
10 MANNER IN THE INSURANCE BUSINESS SHALL NOT ADVERTISE, ANNOUNCE,
11 OR STATE A REPRESENTATION REGARDING THE GROUP CAPITAL
12 CALCULATION, GROUP CAPITAL RATIO, LIQUIDITY STRESS TEST RESULTS,
13 OR SUPPORTING DISCLOSURES FOR THE LIQUIDITY STRESS TEST OF ANY
14 INSURER OR ANY INSURER GROUP, OR OF ANY COMPONENT DERIVED IN THE
15 CALCULATION BY DIRECTLY OR INDIRECTLY MAKING, PUBLISHING,
16 DISSEMINATING, CIRCULATING, OR PLACING THE REPRESENTATION BEFORE
17 THE PUBLIC:

18 (A) IN A NEWSPAPER, MAGAZINE, OR OTHER PUBLICATION; OR

19 (B) IN THE FORM OF A NOTICE, CIRCULAR, PAMPHLET, LETTER, OR
20 POSTER; OR

21 (C) OVER ANY RADIO OR TELEVISION STATION OR ANY ELECTRONIC
22 MEANS OF COMMUNICATION AVAILABLE TO THE PUBLIC; OR

23 (D) IN ANY OTHER WAY AS AN ADVERTISEMENT.

24 (II) AN INSURER MAY PUBLISH AN ANNOUNCEMENT,
25 ADVERTISEMENT, OR STATEMENT DESCRIBED IN SUBSECTION (7)(b)(I) OF
26 THIS SECTION IN A WRITTEN PUBLICATION IF THE SOLE PURPOSE OF THE
27 ANNOUNCEMENT IS TO REBUT THE MATERIALLY FALSE STATEMENT WHEN

1 THE ANNOUNCEMENT, ADVERTISEMENT, OR STATEMENT WAS PUBLISHED
2 IN A WRITTEN PUBLICATION AND THE INSURER IS ABLE TO DEMONSTRATE
3 TO THE COMMISSIONER WITH SUBSTANTIAL PROOF THE FALSITY OR
4 INAPPROPRIATENESS OF SUCH ANNOUNCEMENT, ADVERTISEMENT, OR
5 STATEMENT.

6 **SECTION 5.** In Colorado Revised Statutes, **amend 10-3-705**
7 as follows:

8 **10-3-705. Rules.** (1) The commissioner may adopt rules
9 implementing this part 7.

10 (2) (a) THE COMMISSIONER MAY ADOPT RULES APPLICABLE TO
11 REINSURANCE ARRANGEMENTS DESCRIBED IN THIS SUBSECTION (2)(a).
12 RULES ADOPTED PURSUANT TO THIS SUBSECTION (2) MUST APPLY ONLY TO
13 REINSURANCE RELATING TO:

14 (I) LIFE INSURANCE POLICIES WITH GUARANTEED NONLEVEL GROSS
15 PREMIUMS OR GUARANTEED NONLEVEL BENEFITS;

16 (II) UNIVERSAL LIFE INSURANCE POLICIES WITH PROVISIONS
17 RESULTING IN THE ABILITY OF A POLICYHOLDER TO KEEP A POLICY IN
18 FORCE OVER A SECONDARY GUARANTEE PERIOD;

19 (III) VARIABLE ANNUITIES WITH GUARANTEED DEATH OR LIVING
20 BENEFITS;

21 (IV) LONG-TERM CARE INSURANCE POLICIES; OR

22 (V) OTHER LIFE AND HEALTH INSURANCE AND ANNUITY PRODUCTS
23 AS TO WHICH THE NAIC ADOPTS MODEL REGULATORY REQUIREMENTS
24 WITH RESPECT TO CREDIT FOR REINSURANCE.

25 (b) A RULE ADOPTED PURSUANT TO SUBSECTION (2)(a)(I) OR
26 (2)(a)(II) OF THIS SECTION MUST APPLY TO ANY TREATY CONTAINING:

27 (I) POLICIES ISSUED ON OR AFTER JANUARY 1, 2015; OR

1 (II) POLICIES ISSUED PRIOR TO JANUARY 1, 2015, IF RISK
2 PERTAINING TO PRE-2015 POLICIES IS CEDED IN CONNECTION WITH THE
3 TREATY, IN WHOLE OR IN PART, ON OR AFTER JANUARY 1, 2015.

4 (c) A RULE ADOPTED PURSUANT THIS SUBSECTION (2) MAY
5 REQUIRE THE CEDING INSURER, IN CALCULATING THE AMOUNTS OR FORMS
6 OF SECURITY REQUIRED TO BE HELD UNDER RULES PROMULGATED UNDER
7 THIS SUBSECTION (2), TO USE THE VALUATION MANUAL ADOPTED BY THE
8 NAIC UNDER THE NAIC STANDARD VALUATION LAW, INCLUDING ALL
9 AMENDMENTS ADOPTED BY THE NAIC AND IN EFFECT ON THE DATE ON
10 WHICH THE CALCULATION IS MADE, TO THE EXTENT APPLICABLE.

11 (d) A RULE ADOPTED PURSUANT TO THIS SUBSECTION (2) DOES NOT
12 APPLY TO CESSIONS TO AN ASSUMING INSURER THAT:

13 (I) (A) MEETS THE CONDITIONS SET FORTH IN SECTION 10-3-702
14 (6.5);

15 (B) IS CERTIFIED IN THIS STATE; OR

16 (C) MAINTAINS AT LEAST TWO HUNDRED FIFTY MILLION DOLLARS
17 IN CAPITAL AND SURPLUS WHEN CALCULATED IN ACCORDANCE WITH THE
18 MOST RECENT NAIC ACCOUNTING PRACTICES AND PROCEDURES MANUAL,
19 AS AMENDED BY THE NAIC, EXCLUDING THE IMPACT OF ANY PERMITTED
20 OR PRESCRIBED PRACTICES; AND

21 (II) IS LICENSED:

22 (A) IN AT LEAST TWENTY-SIX STATES; OR

23 (B) IN AT LEAST TEN STATES AND LICENSED OR ACCREDITED IN A
24 TOTAL OF AT LEAST THIRTY-FIVE STATES.

25 (e) THE AUTHORITY TO ADOPT RULES PURSUANT TO THIS
26 SUBSECTION (2) DOES NOT LIMIT THE COMMISSIONER'S GENERAL
27 AUTHORITY TO ADOPT RULES PURSUANT TO SUBSECTION (1) OF THIS

1 SECTION.

2 (f) AS USED IN THIS SUBSECTION (2), "NAIC" MEANS THE
3 NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS.

4 **SECTION 6. Act subject to petition - effective date.** This act
5 takes effect January 1, 2025; except that, if a referendum petition is filed
6 pursuant to section 1 (3) of article V of the state constitution against this
7 act or an item, section, or part of this act within the ninety-day period
8 after final adjournment of the general assembly, then the act, item,
9 section, or part will not take effect unless approved by the people at the
10 general election to be held in November 2024 and, in such case, will take
11 effect January 1, 2025, or on the date of the official declaration of the
12 vote thereon by the governor, whichever is later.