

**Second Regular Session
Seventieth General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 16-0809.01 Bart Miller x2173

SENATE BILL 16-029

SENATE SPONSORSHIP

Scheffel and Heath,

HOUSE SPONSORSHIP

Duran and Lawrence,

Senate Committees

Business, Labor, & Technology

House Committees

Business Affairs and Labor

A BILL FOR AN ACT

101 **CONCERNING CHANGES TO COLORADO INSURANCE LAWS NECESSARY**
102 **TO MAINTAIN ACCREDITATION WITH THE NATIONAL**
103 **ASSOCIATION OF INSURANCE COMMISSIONERS (NAIC), AND, IN**
104 **CONNECTION THEREWITH, ADOPTING A NEW OWN RISK AND**
105 **SOLVENCY ASSESSMENT LAW (ORSA) IN A FORM**
106 **SUBSTANTIALLY SIMILAR TO THE NAIC MODEL AND ENHANCING**
107 **COLORADO'S INSURANCE HOLDING COMPANY SYSTEM LAW BY**
108 **ADDING A REQUIRED NAIC MODEL PROVISION SPECIFYING THE**
109 **INSURANCE COMMISSIONER'S POWER TO ISSUE SUBPOENAS AND**
110 **EXAMINE WITNESSES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unamended
February 26, 2016

HOUSE
Amended 2nd Reading
February 25, 2016

SENATE
3rd Reading Unamended
February 5, 2016

SENATE
Amended 2nd Reading
February 4, 2016

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://www.leg.state.co.us/billsummaries>.)

In 2014, Colorado's insurance company holding systems law was amended to comply with the National Association of Insurance Commissioners' (NAIC) model law. **Section 1** of the bill adds authority in this law from the NAIC model for the insurance commissioner to compel production of information because this authority was inadvertently omitted from the 2014 amendments.

Section 2 of the bill enacts the NAIC own risk and solvency assessment (ORSA) model law. This law requires the filing with the insurance commissioner of annual ORSA summary reports by insurers. The law requires insurers to maintain a risk management framework to assist the insurer with identifying, assessing, monitoring, managing, and reporting on its material and relevant risks.

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

2 **SECTION 1.** In Colorado Revised Statutes, 10-3-806, **add** (5) as
3 follows:

4 **10-3-806. Examination.** (5) IF THE INSURER FAILS TO COMPLY
5 WITH AN ORDER, THE COMMISSIONER MAY EXAMINE THE AFFILIATES TO
6 OBTAIN THE INFORMATION. THE COMMISSIONER MAY ALSO ISSUE
7 SUBPOENAS, ADMINISTER OATHS, AND EXAMINE UNDER OATH ANY PERSON
8 FOR PURPOSES OF DETERMINING COMPLIANCE WITH THIS SECTION. UPON
9 THE FAILURE OR REFUSAL OF ANY PERSON TO OBEY A SUBPOENA, THE
10 COMMISSIONER MAY PETITION A COURT OF COMPETENT JURISDICTION, AND
11 UPON PROPER SHOWING, THE COURT MAY ENTER AN ORDER COMPELLING
12 THE WITNESS TO APPEAR AND TESTIFY OR PRODUCE DOCUMENTARY
13 EVIDENCE. FAILURE TO OBEY THE COURT ORDER IS PUNISHABLE AS
14 CONTEMPT OF COURT. EVERY PERSON SHALL ATTEND AS A WITNESS AT THE
15 PLACE SPECIFIED IN THE SUBPOENA, WHEN SUBPOENAED, ANYWHERE
16 WITHIN THE STATE. WITNESSES NOT EMPLOYED BY THE INSURER SHALL BE

1 PAID THE SAME FEES AND MILEAGE AS ARE PAID TO WITNESSES IN THE
2 COURTS OF THIS STATE, WHICH FEES, MILEAGE, AND ACTUAL EXPENSES, IF
3 ANY, NECESSARILY INCURRED IN SECURING THE ATTENDANCE OF
4 WITNESSES, AND THEIR TESTIMONY, MUST BE ITEMIZED BY THE
5 COMMISSIONER AND CHARGED AGAINST, AND BE PAID BY, THE COMPANY
6 BEING EXAMINED. ==

7 **SECTION 2.** In Colorado Revised Statutes, **add** part 15 to article
8 3 of title 10 as follows:

9 **PART 15**
10 **OWN RISK AND SOLVENCY ASSESSMENT (ORSA)**

11 **10-3-1501. Purpose and scope - legislative declaration.** (1) THE
12 PURPOSE OF THIS PART 15 IS TO PROVIDE THE REQUIREMENTS FOR
13 MAINTAINING A RISK MANAGEMENT FRAMEWORK AND COMPLETING AN
14 OWN RISK AND SOLVENCY ASSESSMENT (ORSA) AND PROVIDE GUIDANCE
15 AND INSTRUCTIONS FOR FILING AN ORSA SUMMARY REPORT WITH THE
16 COMMISSIONER.

17 (2) THE REQUIREMENTS OF THIS PART 15 APPLY TO ALL INSURERS
18 DOMICILED IN THIS STATE UNLESS EXEMPT PURSUANT TO SECTION
19 10-3-1506.

20 (3) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT THE
21 ORSA SUMMARY REPORT WILL CONTAIN CONFIDENTIAL AND SENSITIVE
22 INFORMATION RELATED TO AN INSURER'S OR INSURANCE GROUP'S
23 IDENTIFICATION OF RISKS MATERIAL AND RELEVANT TO THE INSURER OR
24 INSURANCE GROUP FILING THE REPORT. THIS INFORMATION WILL INCLUDE
25 PROPRIETARY AND TRADE SECRET INFORMATION THAT HAS THE POTENTIAL
26 FOR HARM AND COMPETITIVE DISADVANTAGE TO THE INSURER OR
27 INSURANCE GROUP IF THE INFORMATION IS MADE PUBLIC. IT IS THE INTENT

1 OF THE GENERAL ASSEMBLY THAT THE ORSA SUMMARY REPORT BE A
2 CONFIDENTIAL DOCUMENT FILED WITH THE COMMISSIONER, BE SHARED
3 ONLY AS STATED IN THIS PART 15 AND TO ASSIST THE COMMISSIONER IN
4 THE PERFORMANCE OF HIS OR HER DUTIES, AND NOT BE SUBJECT TO PUBLIC
5 DISCLOSURE.

6 **10-3-1502. Definitions.** AS USED IN THIS PART 15, UNLESS THE
7 CONTEXT OTHERWISE REQUIRES:

8 (1) "INSURANCE GROUP" MEANS, FOR THE PURPOSE OF
9 CONDUCTING AN ORSA, THOSE INSURERS AND AFFILIATES INCLUDED
10 WITHIN AN INSURANCE HOLDING COMPANY SYSTEM AS DEFINED IN
11 SECTION 10-3-801 (5).

12 (2) "INSURER" HAS THE SAME MEANING AS SET FORTH IN SECTION
13 10-3-801 (6) AND INCLUDES ANY POLITICAL SUBDIVISION OF THE STATE
14 CREATED PURSUANT TO ARTICLE 45 OF TITLE 8, C.R.S.

15 (3) "NAIC" OR "NATIONAL ASSOCIATION OF INSURANCE
16 COMMISSIONERS" MEANS THE ORGANIZATION OF INSURANCE REGULATORS
17 FROM THE FIFTY STATES, THE DISTRICT OF COLUMBIA, AND THE FOUR
18 UNITED STATES TERRITORIES.

19 (4) "ORSA GUIDANCE MANUAL" MEANS THE CURRENT VERSION OF
20 THE OWN RISK AND SOLVENCY ASSESSMENT GUIDANCE MANUAL
21 DEVELOPED AND ADOPTED BY THE NAIC AND AS AMENDED FROM TIME TO
22 TIME. A CHANGE IN THE ORSA GUIDANCE MANUAL IS EFFECTIVE ON THE
23 JANUARY 1 FOLLOWING THE CALENDAR YEAR IN WHICH THE CHANGE IS
24 ADOPTED BY THE NAIC.

25 (5) "ORSA SUMMARY REPORT" MEANS A CONFIDENTIAL,
26 HIGH-LEVEL SUMMARY OF AN INSURER'S OR INSURANCE GROUP'S ORSA.

27 (6) "OWN RISK AND SOLVENCY ASSESSMENT" OR "ORSA" MEANS

1 A CONFIDENTIAL INTERNAL ASSESSMENT, APPROPRIATE TO THE NATURE,
2 SCALE, AND COMPLEXITY OF AN INSURER OR INSURANCE GROUP,
3 CONDUCTED BY THAT INSURER OR INSURANCE GROUP OF THE MATERIAL
4 AND RELEVANT RISKS ASSOCIATED WITH THE INSURER'S OR INSURANCE
5 GROUP'S CURRENT BUSINESS PLAN AND THE SUFFICIENCY OF CAPITAL
6 RESOURCES TO SUPPORT THOSE RISKS.

7 **10-3-1503. Risk management framework.** AN INSURER SHALL
8 MAINTAIN A RISK MANAGEMENT FRAMEWORK TO ASSIST THE INSURER
9 WITH IDENTIFYING, ASSESSING, MONITORING, MANAGING, AND REPORTING
10 ON ITS MATERIAL AND RELEVANT RISKS. THIS REQUIREMENT MAY BE
11 SATISFIED IF THE INSURANCE GROUP OF WHICH THE INSURER IS A MEMBER
12 MAINTAINS A RISK MANAGEMENT FRAMEWORK APPLICABLE TO THE
13 OPERATIONS OF THE INSURER.

14 **10-3-1504. ORSA requirement.** SUBJECT TO SECTION 10-3-1506,
15 AN INSURER, OR THE INSURANCE GROUP OF WHICH THE INSURER IS A
16 MEMBER, SHALL REGULARLY CONDUCT AN ORSA CONSISTENT WITH A
17 PROCESS COMPARABLE TO THE ORSA GUIDANCE MANUAL. THE ORSA
18 MUST BE CONDUCTED NO LESS THAN ANNUALLY BUT ALSO AT ANY TIME
19 WHEN THERE ARE SIGNIFICANT CHANGES TO THE RISK PROFILE OF THE
20 INSURER OR THE INSURANCE GROUP OF WHICH THE INSURER IS A MEMBER.

21 **10-3-1505. ORSA summary report.** (1) UPON THE
22 COMMISSIONER'S REQUEST, AND NO MORE THAN ONCE EACH YEAR, AN
23 INSURER SHALL SUBMIT TO THE COMMISSIONER AN ORSA SUMMARY
24 REPORT OR ANY COMBINATION OF REPORTS THAT TOGETHER CONTAIN THE
25 INFORMATION DESCRIBED IN THE ORSA GUIDANCE MANUAL, APPLICABLE
26 TO THE INSURER OR THE INSURANCE GROUP OF WHICH IT IS A MEMBER OR
27 TO BOTH THE INSURER AND INSURANCE GROUP. NOTWITHSTANDING ANY

1 REQUEST FROM THE COMMISSIONER, IF THE INSURER IS A MEMBER OF AN
2 INSURANCE GROUP, THE INSURER SHALL SUBMIT THE REPORT REQUIRED BY
3 THIS SECTION IF THE COMMISSIONER IS THE LEAD STATE COMMISSIONER OF
4 THE INSURANCE GROUP AS DETERMINED BY THE PROCEDURES WITHIN THE
5 FINANCIAL ANALYSIS HANDBOOK ADOPTED BY THE NAIC.

6 (2) THE REPORT SHALL INCLUDE A SIGNATURE OF THE INSURER'S
7 OR INSURANCE GROUP'S CHIEF RISK OFFICER OR OTHER EXECUTIVE HAVING
8 RESPONSIBILITY FOR THE OVERSIGHT OF THE INSURER'S ENTERPRISE RISK
9 MANAGEMENT PROCESS, ATTESTING TO THE BEST OF HIS OR HER BELIEF
10 AND KNOWLEDGE THAT THE INSURER APPLIES THE ENTERPRISE RISK
11 MANAGEMENT PROCESS DESCRIBED IN THE ORSA SUMMARY REPORT AND
12 THAT A COPY OF THE REPORT HAS BEEN PROVIDED TO THE INSURER'S
13 BOARD OF DIRECTORS OR THE APPROPRIATE COMMITTEE OF THE BOARD OF
14 DIRECTORS.

15 (3) AN INSURER MAY COMPLY WITH SUBSECTION (1) OF THIS
16 SECTION BY PROVIDING THE MOST RECENT AND SUBSTANTIALLY SIMILAR
17 REPORT PROVIDED BY THE INSURER OR ANOTHER MEMBER OF AN
18 INSURANCE GROUP OF WHICH THE INSURER IS A MEMBER TO THE
19 COMMISSIONER OF ANOTHER STATE OR TO A SUPERVISOR OR REGULATOR
20 OF A FOREIGN JURISDICTION, IF THAT REPORT PROVIDES INFORMATION
21 THAT IS COMPARABLE TO THE INFORMATION DESCRIBED IN THE ORSA
22 GUIDANCE MANUAL. ANY REPORT IN A LANGUAGE OTHER THAN ENGLISH
23 MUST BE ACCOMPANIED BY A TRANSLATION OF THAT REPORT INTO THE
24 ENGLISH LANGUAGE.

25 **10-3-1506. Exemption.** (1) AN INSURER IS EXEMPT FROM THE
26 REQUIREMENTS OF THIS PART 15 IF:

27 (a) THE INSURER HAS _____ ANNUAL DIRECT WRITTEN AND

1 UNAFFILIATED ASSUMED PREMIUM, INCLUDING INTERNATIONAL DIRECT
2 AND ASSUMED PREMIUM, BUT EXCLUDING PREMIUMS REINSURED WITH THE
3 FEDERAL CROP INSURANCE CORPORATION AND NATIONAL FLOOD
4 INSURANCE PROGRAM, LESS THAN FIVE HUNDRED MILLION DOLLARS; AND

5 (b) THE INSURANCE GROUP OF WHICH THE INSURER IS A MEMBER
6 HAS ANNUAL DIRECT WRITTEN AND UNAFFILIATED ASSUMED PREMIUM,
7 INCLUDING INTERNATIONAL DIRECT AND ASSUMED PREMIUM, BUT
8 EXCLUDING PREMIUMS REINSURED WITH THE FEDERAL CROP INSURANCE
9 CORPORATION AND NATIONAL FLOOD INSURANCE PROGRAM, LESS THAN
10 ONE BILLION DOLLARS.

11 (2) IF AN INSURER QUALIFIES FOR EXEMPTION UNDER PARAGRAPH
12 (a) OF SUBSECTION (1) OF THIS SECTION, BUT THE INSURANCE GROUP OF
13 WHICH THE INSURER IS A MEMBER DOES NOT QUALIFY FOR EXEMPTION
14 UNDER PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION, THEN THE
15 ORSA SUMMARY REPORT REQUIRED UNDER SECTION 10-3-1505 MUST
16 INCLUDE EVERY INSURER WITHIN THE INSURANCE GROUP. THIS
17 REQUIREMENT MAY BE SATISFIED BY THE SUBMISSION OF MORE THAN ONE
18 ORSA SUMMARY REPORT FOR ANY COMBINATION OF INSURERS IF ANY
19 COMBINATION OF REPORTS INCLUDES EVERY INSURER WITHIN THE
20 INSURANCE GROUP.

21 (3) IF AN INSURER DOES NOT QUALIFY FOR EXEMPTION UNDER
22 PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION, BUT THE INSURANCE
23 GROUP OF WHICH IT IS A MEMBER QUALIFIES FOR EXEMPTION UNDER
24 PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION, THEN THE ONLY
25 ORSA SUMMARY REPORT REQUIRED UNDER SECTION 10-3-1505 IS THE
26 REPORT APPLICABLE TO THAT INSURER.

27 (4) AN INSURER THAT DOES NOT QUALIFY FOR EXEMPTION UNDER

1 SUBSECTION (1) OF THIS SECTION MAY APPLY TO THE COMMISSIONER FOR
2 A WAIVER FROM THE REQUIREMENTS OF THIS PART 15 BASED UPON UNIQUE
3 CIRCUMSTANCES. IN DECIDING WHETHER TO GRANT THE INSURER'S
4 REQUEST FOR WAIVER, THE COMMISSIONER MAY CONSIDER THE TYPE AND
5 VOLUME OF BUSINESS WRITTEN, OWNERSHIP AND ORGANIZATIONAL
6 STRUCTURE, AND ANY OTHER FACTOR THE COMMISSIONER CONSIDERS
7 RELEVANT TO THE INSURER OR INSURANCE GROUP OF WHICH THE INSURER
8 IS A MEMBER. IF THE INSURER IS PART OF AN INSURANCE GROUP WITH
9 INSURERS DOMICILED IN MORE THAN ONE STATE, THE COMMISSIONER
10 SHALL COORDINATE WITH THE LEAD STATE COMMISSIONER AND WITH THE
11 OTHER DOMICILIARY COMMISSIONERS IN CONSIDERING WHETHER TO
12 GRANT THE INSURER'S REQUEST FOR A WAIVER.

13 (5) NOTWITHSTANDING THE EXEMPTIONS PROVIDED IN THIS
14 SECTION:

15 (a) THE COMMISSIONER MAY REQUIRE THAT AN INSURER MAINTAIN
16 A RISK MANAGEMENT FRAMEWORK, CONDUCT AN ORSA, AND FILE AN
17 ORSA SUMMARY REPORT BASED ON UNIQUE CIRCUMSTANCES INCLUDING
18 THE TYPE AND VOLUME OF BUSINESS WRITTEN, OWNERSHIP AND
19 ORGANIZATIONAL STRUCTURE, FEDERAL AGENCY REQUESTS, AND
20 INTERNATIONAL SUPERVISOR REQUESTS;

21 (b) THE COMMISSIONER MAY REQUIRE THAT AN INSURER MAINTAIN
22 A RISK MANAGEMENT FRAMEWORK, CONDUCT AN ORSA, AND FILE AN
23 ORSA SUMMARY REPORT IF THE INSURER HAS RISK-BASED CAPITAL FOR
24 A COMPANY ACTION LEVEL EVENT AS SET FORTH IN THE APPLICABLE RULES
25 PROMULGATED BY THE COMMISSIONER RELATING TO INSURERS'
26 RISK-BASED CAPITAL, MEETS ONE OR MORE OF THE STANDARDS OF AN
27 INSURER DEEMED TO BE IN HAZARDOUS FINANCIAL CONDITION AS DEFINED

1 IN THE APPLICABLE RULES PROMULGATED BY THE COMMISSIONER TO
2 DEFINE STANDARDS AND THE COMMISSIONER'S AUTHORITY FOR
3 COMPANIES DEEMED TO BE IN HAZARDOUS FINANCIAL CONDITION, OR
4 OTHERWISE EXHIBITS QUALITIES OF A TROUBLED INSURER AS DETERMINED
5 BY THE COMMISSIONER.

6 (6) IF AN INSURER THAT QUALIFIES FOR AN EXEMPTION UNDER
7 SUBSECTION (1) OF THIS SECTION SUBSEQUENTLY NO LONGER QUALIFIES
8 FOR THAT EXEMPTION DUE TO CHANGES IN PREMIUM AS REFLECTED IN THE
9 INSURER'S MOST RECENT ANNUAL STATEMENT OR IN THE MOST RECENT
10 ANNUAL STATEMENTS OF THE INSURERS WITHIN THE INSURANCE GROUP OF
11 WHICH THE INSURER IS A MEMBER, THE INSURER HAS ONE YEAR AFTER THE
12 YEAR THE THRESHOLD IS EXCEEDED TO COMPLY WITH THE REQUIREMENTS
13 OF THIS PART 15.

14 **10-3-1507. Contents of ORSA summary report.** (1) THE ORSA
15 SUMMARY REPORT MUST BE PREPARED TO BE CONSISTENT WITH THE
16 ORSA GUIDANCE MANUAL, SUBJECT TO THE REQUIREMENTS OF
17 SUBSECTION (2) OF THIS SECTION. DOCUMENTATION AND SUPPORTING
18 INFORMATION MUST BE MAINTAINED AND MADE AVAILABLE UPON
19 EXAMINATION OR UPON REQUEST OF THE COMMISSIONER.

20 (2) THE REVIEW OF THE ORSA SUMMARY REPORT AND ANY
21 ADDITIONAL REQUESTS FOR INFORMATION MUST BE MADE USING SIMILAR
22 PROCEDURES CURRENTLY USED IN THE ANALYSIS AND EXAMINATION OF
23 MULTISTATE OR GLOBAL INSURERS AND INSURANCE GROUPS.

24 **10-3-1508. Confidentiality.** (1) DOCUMENTS, MATERIALS, OR
25 OTHER INFORMATION, INCLUDING THE ORSA SUMMARY REPORT, IN THE
26 POSSESSION OR CONTROL OF THE DIVISION OF INSURANCE THAT ARE
27 OBTAINED BY, CREATED BY, OR DISCLOSED TO THE COMMISSIONER OR ANY

1 OTHER PERSON UNDER THIS PART 15, ARE RECOGNIZED BY THIS STATE AS
2 BEING PROPRIETARY AND CONTAINING TRADE SECRETS. ALL DOCUMENTS,
3 MATERIALS, OR OTHER INFORMATION, INCLUDING THE ORSA SUMMARY
4 REPORT, ARE CONFIDENTIAL BY LAW AND PRIVILEGED; ARE NOT SUBJECT
5 TO THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE
6 24, C.R.S., OR OTHER OPEN RECORDS, FREEDOM OF INFORMATION,
7 SUNSHINE, OR OTHER SIMILAR LAW OF THIS STATE; ARE NOT SUBJECT TO
8 SUBPOENA; AND ARE NOT SUBJECT TO DISCOVERY OR ADMISSIBLE IN
9 EVIDENCE IN ANY PRIVATE CIVIL ACTION. HOWEVER, THE COMMISSIONER
10 MAY USE THE DOCUMENTS, MATERIALS, OR OTHER INFORMATION IN THE
11 FURTHERANCE OF ANY REGULATORY OR LEGAL ACTION BROUGHT AS A
12 PART OF THE COMMISSIONER'S OFFICIAL DUTIES. THE COMMISSIONER
13 SHALL NOT OTHERWISE MAKE THE DOCUMENTS, MATERIALS, OR OTHER
14 INFORMATION PUBLIC WITHOUT THE PRIOR WRITTEN CONSENT OF THE
15 INSURER.

16 (2) NEITHER THE COMMISSIONER NOR ANY PERSON WHO RECEIVED
17 DOCUMENTS, MATERIALS, OR OTHER ORSA-RELATED INFORMATION,
18 THROUGH EXAMINATION OR OTHERWISE, WHILE ACTING UNDER THE
19 AUTHORITY OF THE COMMISSIONER OR WITH WHOM SUCH DOCUMENTS,
20 MATERIALS, OR OTHER INFORMATION ARE SHARED PURSUANT TO THIS
21 PART 15 IS PERMITTED OR REQUIRED TO TESTIFY IN ANY PRIVATE CIVIL
22 ACTION CONCERNING ANY CONFIDENTIAL DOCUMENTS, MATERIALS, OR
23 INFORMATION SUBJECT TO SUBSECTION (1) OF THIS SECTION.

24 (3) IN ORDER TO ASSIST IN THE PERFORMANCE OF THE
25 COMMISSIONER'S REGULATORY DUTIES, THE COMMISSIONER:

26 (a) MAY, UPON REQUEST, SHARE DOCUMENTS, MATERIALS, OR
27 OTHER ORSA-RELATED INFORMATION, INCLUDING THE CONFIDENTIAL

1 AND PRIVILEGED DOCUMENTS, MATERIALS, OR INFORMATION SUBJECT TO
2 SUBSECTION (1) OF THIS SECTION, INCLUDING PROPRIETARY AND
3 TRADE-SECRET DOCUMENTS AND MATERIALS, WITH OTHER STATE,
4 FEDERAL, AND INTERNATIONAL FINANCIAL REGULATORY AGENCIES,
5 INCLUDING MEMBERS OF ANY SUPERVISORY COLLEGE AS DEFINED IN
6 SECTION 10-3-807, WITH THE NAIC AND WITH ANY THIRD-PARTY
7 CONSULTANTS DESIGNATED BY THE COMMISSIONER, IF THE RECIPIENT
8 AGREES IN WRITING TO MAINTAIN THE CONFIDENTIALITY AND PRIVILEGED
9 STATUS OF THE ORSA-RELATED DOCUMENTS, MATERIALS, OR OTHER
10 INFORMATION AND HAS VERIFIED IN WRITING THE LEGAL AUTHORITY TO
11 MAINTAIN CONFIDENTIALITY; AND

12 (b) MAY RECEIVE DOCUMENTS, MATERIALS, OR OTHER
13 ORSA-RELATED INFORMATION, INCLUDING OTHERWISE CONFIDENTIAL
14 AND PRIVILEGED DOCUMENTS, MATERIALS, OR INFORMATION, INCLUDING
15 PROPRIETARY AND TRADE-SECRET INFORMATION OR DOCUMENTS, FROM
16 REGULATORY OFFICIALS OF OTHER FOREIGN OR DOMESTIC JURISDICTIONS,
17 INCLUDING MEMBERS OF ANY SUPERVISORY COLLEGE AS DEFINED IN
18 SECTION 10-3-807, AND FROM THE NAIC, AND SHALL MAINTAIN AS
19 CONFIDENTIAL OR PRIVILEGED ANY DOCUMENTS, MATERIALS, OR
20 INFORMATION RECEIVED WITH NOTICE OR THE UNDERSTANDING THAT IT
21 IS CONFIDENTIAL OR PRIVILEGED UNDER THE LAWS OF THE JURISDICTION
22 THAT IS THE SOURCE OF THE DOCUMENT, MATERIAL, OR INFORMATION;

23 (c) SHALL ENTER INTO A WRITTEN AGREEMENT WITH THE NAIC OR
24 A THIRD-PARTY CONSULTANT GOVERNING SHARING AND USE OF
25 INFORMATION PROVIDED PURSUANT TO THIS PART 15, CONSISTENT WITH
26 THIS SUBSECTION (3), WHICH AGREEMENT MUST:

27 (I) SPECIFY PROCEDURES AND PROTOCOLS REGARDING THE

1 CONFIDENTIALITY AND SECURITY OF INFORMATION SHARED WITH THE
2 NAIC OR A THIRD-PARTY CONSULTANT PURSUANT TO THIS PART 15,
3 INCLUDING PROCEDURES AND PROTOCOLS FOR SHARING BY THE NAIC
4 WITH OTHER STATE REGULATORS FROM STATES IN WHICH THE INSURANCE
5 GROUP HAS DOMICILED INSURERS. THE AGREEMENT MUST PROVIDE THAT
6 THE RECIPIENT AGREES IN WRITING TO MAINTAIN THE CONFIDENTIALITY
7 AND PRIVILEGED STATUS OF THE ORSA-RELATED DOCUMENTS,
8 MATERIALS, OR OTHER INFORMATION AND HAS VERIFIED IN WRITING THE
9 LEGAL AUTHORITY TO MAINTAIN CONFIDENTIALITY.

10 (II) SPECIFY THAT OWNERSHIP OF INFORMATION SHARED WITH THE
11 NAIC OR A THIRD-PARTY CONSULTANT PURSUANT TO THIS PART 15
12 REMAINS WITH THE COMMISSIONER AND THAT THE NAIC'S OR
13 THIRD-PARTY CONSULTANT'S USE OF THE INFORMATION IS SUBJECT TO THE
14 DIRECTION OF THE COMMISSIONER;

15 (III) PROHIBIT THE NAIC OR THIRD-PARTY CONSULTANT FROM
16 STORING THE INFORMATION SHARED PURSUANT TO THIS PART 15 IN A
17 PERMANENT DATABASE AFTER THE UNDERLYING ANALYSIS IS COMPLETED;

18 (IV) REQUIRE PROMPT NOTICE BE GIVEN TO AN INSURER WHOSE
19 CONFIDENTIAL INFORMATION IN THE POSSESSION OF THE NAIC OR A
20 THIRD-PARTY CONSULTANT PURSUANT TO THIS PART 15 IS SUBJECT TO A
21 REQUEST OR SUBPOENA TO THE NAIC OR THIRD-PARTY CONSULTANT FOR
22 DISCLOSURE OR PRODUCTION;

23 (V) REQUIRE THE NAIC OR A THIRD-PARTY CONSULTANT TO
24 CONSENT TO INTERVENTION BY AN INSURER IN ANY JUDICIAL OR
25 ADMINISTRATIVE ACTION IN WHICH THE NAIC OR THIRD-PARTY
26 CONSULTANT MAY BE REQUIRED TO DISCLOSE CONFIDENTIAL
27 INFORMATION ABOUT THE INSURER SHARED WITH THE NAIC OR

1 THIRD-PARTY CONSULTANT PURSUANT TO THIS PART 15; AND

2 (VI) IN THE CASE OF AN AGREEMENT INVOLVING A THIRD-PARTY
3 CONSULTANT, PROVIDE FOR THE INSURER'S WRITTEN CONSENT.

4 (4) THE SHARING OF INFORMATION AND DOCUMENTS BY THE
5 COMMISSIONER UNDER THIS PART 15 DOES NOT CONSTITUTE A
6 DELEGATION OF REGULATORY AUTHORITY OR RULE-MAKING, AND THE
7 COMMISSIONER IS SOLELY RESPONSIBLE FOR THE ADMINISTRATION,
8 EXECUTION, AND ENFORCEMENT OF THIS PART 15.

9 (5) NO WAIVER OF ANY APPLICABLE PRIVILEGE OR CLAIM OF
10 CONFIDENTIALITY IN THE DOCUMENTS, PROPRIETARY AND TRADE-SECRET
11 MATERIALS, OR OTHER ORSA-RELATED INFORMATION MAY OCCUR AS A
12 RESULT OF DISCLOSURE OF SUCH ORSA-RELATED INFORMATION OR
13 DOCUMENTS TO THE COMMISSIONER UNDER THIS SECTION OR AS A RESULT
14 OF SHARING AS AUTHORIZED IN THIS PART 15.

15 (6) DOCUMENTS, MATERIALS, OR OTHER INFORMATION IN THE
16 POSSESSION OR CONTROL OF THE NAIC OR A THIRD-PARTY CONSULTANT
17 UNDER THIS PART 15 IS CONFIDENTIAL BY LAW AND PRIVILEGED; IS NOT
18 SUBJECT TO THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72
19 OF TITLE 24, C.R.S., OR OTHER OPEN RECORDS, FREEDOM OF
20 INFORMATION, SUNSHINE, OR OTHER SIMILAR LAW OF THIS STATE; IS NOT
21 SUBJECT TO SUBPOENA; AND IS NOT SUBJECT TO DISCOVERY OR
22 ADMISSIBLE IN EVIDENCE IN ANY PRIVATE CIVIL ACTION.

23 **10-3-1509. Sanctions.** ANY INSURER FAILING, WITHOUT JUST
24 CAUSE, TO TIMELY FILE THE ORSA SUMMARY REPORT AS REQUIRED IN
25 THIS PART 15 SHALL, AFTER NOTICE AND HEARING, PAY A PENALTY OF TWO
26 HUNDRED DOLLARS FOR EACH DAY'S DELAY. THE MAXIMUM PENALTY
27 UNDER THIS SECTION IS TWENTY-FIVE THOUSAND DOLLARS. THE

1 COMMISSIONER MAY REDUCE THE PENALTY IF THE INSURER
2 DEMONSTRATES TO THE COMMISSIONER THAT THE IMPOSITION OF THE
3 PENALTY WOULD CONSTITUTE A FINANCIAL HARDSHIP TO THE INSURER.

4 **10-3-1510. Rules.** THE COMMISSIONER MAY, UPON NOTICE AND
5 OPPORTUNITY FOR ALL INTERESTED PERSONS TO BE HEARD, ISSUE RULES
6 AND ORDERS AS ARE NECESSARY TO CARRY OUT THIS PART 15.

7 **10-3-1511. Effective date.** THE REQUIREMENTS OF THIS PART 15
8 ARE EFFECTIVE BEGINNING WITH CALENDAR YEAR 2017. THE FIRST
9 REQUIRED FILING OF THE ORSA SUMMARY REPORT IS IN 2017 AS SPECIFIED
10 IN SECTION 10-3-1505. AN INSURER THAT HAS MAINTAINED A RISK
11 MANAGEMENT FRAMEWORK CONSISTENT WITH THE REQUIREMENTS OF
12 THIS PART 15 IN CALENDAR YEAR 2016 MAY, BUT IS NOT REQUIRED TO,
13 FILE ITS ORSA SUMMARY REPORT IN 2016, AND SUCH REPORT WILL BE
14 CONFIDENTIAL AS SPECIFIED IN SECTION 10-3-1508.

15 **SECTION 3. Safety clause.** The general assembly hereby finds,
16 determines, and declares that this act is necessary for the immediate
17 preservation of the public peace, health, and safety.