

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 19-1000.01 Richard Sweetman x4333

HOUSE BILL 19-1291

HOUSE SPONSORSHIP

Arndt,

SENATE SPONSORSHIP

(None),

House Committees
Business Affairs & Labor

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE SUPERVISION OF INSURERS, AND, IN CONNECTION**
102 **THEREWITH, ESTABLISHING CERTAIN DISCLOSURE**
103 **REQUIREMENTS FOR INSURERS.**

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 establishes, with amendments, certain model laws of the National Association of Insurance Commissioners, which laws concern corporate governance annual disclosures (CGADs) by insurers and insurance groups (insurers). On June 1, 2020, and on June 1 of each year thereafter, an insurer shall submit to the commissioner of insurance

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

(commissioner) a CGAD that contains sufficient information to provide the commissioner with a clear understanding of the insurer's corporate governance structure, policies, and practices.

The bill establishes confidentiality requirements for the commissioner and any third-party consultants retained by the commissioner.

The bill states that any insurer that fails, without just cause, to timely file a CGAD shall pay, after notice and a hearing, a penalty of \$200 for each day's delay. The maximum penalty is \$25,000.

The bill allows the commissioner to act as the group-wide supervisor for an internationally active insurance group or to designate or acknowledge another regulatory official as the group-wide supervisor for an internationally active insurance group that:

- ! Does not have substantial insurance operations in the United States;
- ! Has substantial insurance operations in the United States, but not in Colorado; or
- ! Has substantial insurance operations in the United States and in Colorado, but the commissioner has determined pursuant to certain criteria that the other regulatory official is the appropriate group-wide supervisor.

The bill sets forth certain permissible supervisory activities for a group-wide supervisor of an internationally active insurance group.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 16 to article
3 of title 10 as follows:

4 **PART 16**

5 **CORPORATE GOVERNANCE ANNUAL DISCLOSURES**

6 **10-3-1601. Purpose and scope - applicability - legislative**
7 **declaration.** (1) THE PURPOSE OF THIS PART 16 IS TO:

8 (a) PROVIDE THE COMMISSIONER A SUMMARY OF EACH INSURER'S
9 AND INSURANCE GROUP'S CORPORATE GOVERNANCE STRUCTURE, POLICIES,
10 AND PRACTICES TO PERMIT THE COMMISSIONER TO GAIN AND MAINTAIN AN
11 UNDERSTANDING OF EACH INSURER'S AND INSURANCE GROUP'S
12 CORPORATE GOVERNANCE FRAMEWORK;

1 (b) OUTLINE THE REQUIREMENTS FOR SUBMITTING A CORPORATE
2 GOVERNANCE ANNUAL DISCLOSURE TO THE COMMISSIONER; AND

3 (c) PROVIDE FOR THE CONFIDENTIAL TREATMENT OF EACH
4 INSURER'S AND INSURANCE GROUP'S CORPORATE GOVERNANCE ANNUAL
5 DISCLOSURE AND RELATED INFORMATION, WHICH MAY CONTAIN
6 CONFIDENTIAL AND SENSITIVE INFORMATION RELATED TO THE INSURER'S
7 OR INSURANCE GROUP'S INTERNAL OPERATIONS, INCLUDING PROPRIETARY
8 AND TRADE SECRET INFORMATION THE PUBLIC DISCLOSURE OF WHICH
9 COULD POTENTIALLY CAUSE COMPETITIVE HARM OR DISADVANTAGE TO
10 THE INSURER OR INSURANCE GROUP.

11 (2) (a) NOTHING IN THIS PART 16 MAY BE CONSTRUED TO
12 PRESCRIBE OR IMPOSE CORPORATE GOVERNANCE STANDARDS OR
13 INTERNAL PROCEDURES BEYOND THOSE STANDARDS AND PROCEDURES
14 THAT ARE REQUIRED UNDER APPLICABLE COLORADO CORPORATE LAW.

15 (b) NOTWITHSTANDING SUBSECTION (2)(a) OF THIS SECTION,
16 NOTHING IN THIS PART 16 MAY BE CONSTRUED TO LIMIT THE
17 COMMISSIONER'S AUTHORITY OR THE RIGHTS OR OBLIGATIONS OF THIRD
18 PARTIES UNDER PART 2 OF ARTICLE 1 OF THIS TITLE 10.

19 (3) THE REQUIREMENTS OF THIS PART 16 APPLY TO ALL INSURERS
20 DOMICILED IN THIS STATE.

21 **10-3-1602. Definitions.** AS USED IN THIS PART 16, UNLESS THE
22 CONTEXT OTHERWISE REQUIRES:

23 (1) "CORPORATE GOVERNANCE ANNUAL DISCLOSURE" OR "CGAD"
24 MEANS A CONFIDENTIAL REPORT FILED BY AN INSURER OR AN INSURANCE
25 GROUP IN ACCORDANCE WITH THE REQUIREMENTS OF THIS PART 16.

26 (2) "INSURANCE GROUP" MEANS THOSE INSURERS AND AFFILIATES
27 THAT ARE INCLUDED WITHIN AN INSURANCE HOLDING COMPANY SYSTEM,

1 AS DEFINED IN SECTION 10-3-801 (5).

2 (3) "INSURER" HAS THE MEANING SET FORTH IN SECTION 10-3-801
3 (6); EXCEPT THAT "INSURER" DOES NOT INCLUDE AN AGENCY, AUTHORITY,
4 OR INSTRUMENTALITY OF THE UNITED STATES OR ITS POSSESSIONS AND
5 TERRITORIES, THE COMMONWEALTH OF PUERTO RICO, THE DISTRICT OF
6 COLUMBIA, OR A STATE OR POLITICAL SUBDIVISION OF A STATE.

7 (4) "NAIC" MEANS THE NATIONAL ASSOCIATION OF INSURANCE
8 COMMISSIONERS.

9 (5) "ORSA SUMMARY REPORT" HAS THE MEANING SET FORTH IN
10 SECTION 10-3-1502 (5).

11 **10-3-1603. Disclosure requirement.** (1) ON JUNE 1, 2020, AND
12 ON JUNE 1 OF EACH YEAR THEREAFTER, AN INSURER, OR THE INSURANCE
13 GROUP OF WHICH THE INSURER IS A MEMBER, SHALL SUBMIT TO THE
14 COMMISSIONER A CGAD THAT CONTAINS THE INFORMATION DESCRIBED
15 IN SECTION 10-3-1604 AND IN SUBSECTION (2) OF THIS SECTION.
16 NOTWITHSTANDING ANY REQUEST FROM THE COMMISSIONER MADE
17 PURSUANT TO SUBSECTION (3) OF THIS SECTION, IF AN INSURER IS A
18 MEMBER OF AN INSURANCE GROUP, THE INSURER SHALL SUBMIT THE
19 REPORT REQUIRED BY THIS SECTION TO THE COMMISSIONER OF THE LEAD
20 STATE FOR THE INSURANCE GROUP, IN ACCORDANCE WITH THE LAWS OF
21 THE LEAD STATE, AS DETERMINED BY THE PROCEDURES OUTLINED IN THE
22 MOST RECENT FINANCIAL ANALYSIS HANDBOOK ADOPTED BY THE NAIC.

23 (2) THE CGAD MUST INCLUDE THE SIGNATURE OF THE INSURER OR
24 INSURANCE GROUP'S CHIEF EXECUTIVE OFFICER OR CORPORATE
25 SECRETARY ATTESTING THAT, TO THE BEST OF THAT INDIVIDUAL'S BELIEF
26 AND KNOWLEDGE:

27 (a) THE INSURER OR INSURANCE GROUP HAS IMPLEMENTED THE

1 CORPORATE GOVERNANCE PRACTICES; AND

2 (b) A COPY OF THE DISCLOSURE HAS BEEN PROVIDED TO THE
3 INSURER OR INSURANCE GROUP'S BOARD OF DIRECTORS OR THE
4 APPROPRIATE COMMITTEE THEREOF.

5 (3) AN INSURER OR INSURANCE GROUP THAT IS NOT REQUIRED TO
6 SUBMIT A CGAD UNDER THIS SECTION SHALL DO SO AT THE
7 COMMISSIONER'S REQUEST.

8 (4) (a) FOR PURPOSES OF COMPLETING A CGAD, AN INSURER OR
9 INSURANCE GROUP MAY PROVIDE INFORMATION REGARDING CORPORATE
10 GOVERNANCE AT THE ULTIMATE CONTROLLING PARENT LEVEL, AT AN
11 INTERMEDIATE HOLDING COMPANY LEVEL, OR AT THE INDIVIDUAL LEGAL
12 ENTITY LEVEL, DEPENDING UPON HOW THE INSURER OR INSURANCE GROUP
13 HAS STRUCTURED ITS SYSTEM OF CORPORATE GOVERNANCE. EACH
14 INSURER AND INSURANCE GROUP IS ENCOURAGED TO MAKE ITS CGAD
15 DISCLOSURES AT:

16 (I) THE LEVEL AT WHICH THE INSURER'S OR INSURANCE GROUP'S
17 RISK APPETITE IS DETERMINED;

18 (II) THE LEVEL AT WHICH THE EARNINGS, CAPITAL, LIQUIDITY,
19 OPERATIONS, AND REPUTATION OF THE INSURER OR INSURANCE GROUP ARE
20 OVERSEEN COLLECTIVELY AND AT WHICH THE SUPERVISION OF THESE
21 FACTORS IS COORDINATED AND EXERCISED; OR

22 (III) THE LEVEL AT WHICH LEGAL LIABILITY FOR FAILURE OF
23 GENERAL CORPORATE GOVERNANCE DUTIES WOULD BE PLACED.

24 (b) IF AN INSURER OR INSURANCE GROUP MAKES ITS CGAD
25 DISCLOSURES AT A LEVEL DESCRIBED IN SUBSECTION (4)(a) OF THIS
26 SECTION, THE INSURER OR INSURANCE GROUP SHALL INCLUDE IN THE
27 CGAD AN INDICATION OF WHICH LEVEL AND AN EXPLANATION OF ANY

1 SUBSEQUENT CHANGE IN THE LEVEL.

2 (5) THE COMMISSIONER'S REVIEW OF THE CGAD AND ANY
3 ADDITIONAL REQUESTS FOR INFORMATION SHALL BE MADE THROUGH THE
4 LEAD STATE OF THE INSURANCE GROUP, AS DETERMINED BY THE
5 PROCEDURES WITHIN THE MOST RECENT FINANCIAL ANALYSIS HANDBOOK
6 ADOPTED BY THE NAIC.

7 (6) INSURERS AND INSURANCE GROUPS THAT PROVIDE TO THE
8 COMMISSIONER OTHER DOCUMENTS THAT INCLUDE INFORMATION
9 SUBSTANTIALLY SIMILAR TO THE INFORMATION REQUIRED BY THIS PART
10 16, INCLUDING PROXY STATEMENTS FILED IN CONJUNCTION WITH FORM B
11 REQUIREMENTS AND OTHER STATE OR FEDERAL FILINGS PROVIDED TO THE
12 DIVISION, ARE NOT REQUIRED TO DUPLICATE THAT INFORMATION IN THE
13 CGAD BUT SHALL INCLUDE IN THE CGAD CROSS REFERENCES INDICATING
14 WHICH DOCUMENT OR DOCUMENTS INCLUDE THE INFORMATION.

15 **10-3-1604. Contents of corporate governance annual**
16 **disclosure - rules.** (1) IN RESPONDING TO A REQUEST FOR
17 CGAD-RELATED INFORMATION, AN INSURER OR INSURANCE GROUP MAY
18 EXERCISE ITS DISCRETION SO LONG AS ITS CGAD PROVIDES THE
19 COMMISSIONER SUFFICIENT INFORMATION TO UNDERSTAND THE INSURER'S
20 OR INSURANCE GROUP'S CORPORATE GOVERNANCE STRUCTURE, POLICIES,
21 AND PRACTICES. THE COMMISSIONER MAY REQUEST THAT AN INSURER OR
22 INSURANCE GROUP PROVIDE ADDITIONAL INFORMATION FOR THIS PURPOSE.

23 (2) NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION, EACH
24 INSURER AND INSURANCE GROUP SHALL PREPARE EACH CGAD IN
25 COMPLIANCE WITH THIS PART 16 AND WITH REQUIREMENTS ESTABLISHED
26 PURSUANT TO RULES PROMULGATED BY THE COMMISSIONER PURSUANT TO
27 SECTION 10-3-1608. EACH INSURER AND INSURANCE GROUP THAT SUBMITS

1 A CGAD SHALL MAINTAIN DOCUMENTATION AND SUPPORTING
2 INFORMATION AND MAKE SUCH DOCUMENTATION AND SUPPORTING
3 INFORMATION AVAILABLE UPON REQUEST OF THE COMMISSIONER.

4 **10-3-1605. Confidentiality.** (1) DOCUMENTS, MATERIALS, AND
5 OTHER INFORMATION, INCLUDING A CGAD, IN THE POSSESSION OR
6 CONTROL OF THE DIVISION THAT ARE OBTAINED BY, CREATED BY, OR
7 DISCLOSED TO THE COMMISSIONER OR ANY OTHER PERSON UNDER THIS
8 PART 16 ARE RECOGNIZED BY THIS STATE AS BEING PROPRIETARY AND TO
9 CONTAIN TRADE SECRETS. ALL SUCH DOCUMENTS, MATERIALS, AND OTHER
10 INFORMATION ARE CONFIDENTIAL BY LAW AND PRIVILEGED, NOT SUBJECT
11 TO THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE
12 24; NOT SUBJECT TO SUBPOENA; AND NOT SUBJECT TO DISCOVERY OR
13 ADMISSIBLE AS EVIDENCE IN ANY PRIVATE CIVIL ACTION. HOWEVER, THE
14 COMMISSIONER MAY USE THE DOCUMENTS, MATERIALS, OR OTHER
15 INFORMATION IN THE FURTHERANCE OF ANY REGULATORY OR LEGAL
16 ACTION BROUGHT AS A PART OF THE COMMISSIONER'S OFFICIAL DUTIES.
17 THE COMMISSIONER SHALL NOT OTHERWISE MAKE THE DOCUMENTS,
18 MATERIALS, OR OTHER INFORMATION PUBLIC WITHOUT THE PRIOR WRITTEN
19 CONSENT OF THE INSURER OR INSURANCE GROUP. NOTHING IN THIS
20 SECTION MAY BE CONSTRUED TO REQUIRE THE WRITTEN CONSENT OF AN
21 INSURER OR INSURANCE GROUP BEFORE THE COMMISSIONER MAY SHARE
22 OR RECEIVE CONFIDENTIAL DOCUMENTS, MATERIALS, OR OTHER
23 CGAD-RELATED INFORMATION PURSUANT TO SUBSECTION (3) OF THIS
24 SECTION.

25 (2) NEITHER THE COMMISSIONER NOR ANY PERSON WHO RECEIVED
26 DOCUMENTS, MATERIALS, OR OTHER CGAD-RELATED INFORMATION
27 THROUGH EXAMINATION OR OTHERWISE WHILE ACTING UNDER THE

1 AUTHORITY OF THE COMMISSIONER, OR WITH WHOM SUCH DOCUMENTS,
2 MATERIALS, OR OTHER INFORMATION ARE SHARED PURSUANT TO THIS
3 PART 16, MAY BE PERMITTED OR REQUIRED TO TESTIFY IN ANY PRIVATE
4 CIVIL ACTION CONCERNING ANY CONFIDENTIAL DOCUMENTS, MATERIALS,
5 OR INFORMATION SUBJECT TO SUBSECTION (1) OF THIS SECTION.

6 (3) IN ORDER TO PERFORM THE COMMISSIONER'S REGULATORY
7 DUTIES, THE COMMISSIONER:

8 (a) MAY, UPON REQUEST AND SUBJECT TO SUBSECTION (1) OF THIS
9 SECTION, SHARE DOCUMENTS, MATERIALS, AND OTHER CGAD-RELATED
10 INFORMATION, INCLUDING CONFIDENTIAL AND PRIVILEGED DOCUMENTS,
11 MATERIALS, AND INFORMATION AND PROPRIETARY AND TRADE SECRET
12 DOCUMENTS AND MATERIALS, WITH OTHER STATE, FEDERAL, AND
13 INTERNATIONAL FINANCIAL REGULATORY AGENCIES, INCLUDING MEMBERS
14 OF ANY SUPERVISORY COLLEGE, AS DESCRIBED IN SECTION 10-3-807; THE
15 NAIC; AND THIRD-PARTY CONSULTANTS PURSUANT TO SECTION
16 10-3-1606 SO LONG AS THE RECIPIENT AGREES IN WRITING TO MAINTAIN
17 THE CONFIDENTIALITY AND PRIVILEGED STATUS OF THE CGAD-RELATED
18 DOCUMENTS, MATERIAL, OR OTHER INFORMATION AND HAS VERIFIED IN
19 WRITING THE LEGAL AUTHORITY TO MAINTAIN CONFIDENTIALITY;

20 (b) MAY RECEIVE DOCUMENTS, MATERIALS, AND OTHER
21 CGAD-RELATED INFORMATION, INCLUDING CONFIDENTIAL AND
22 PRIVILEGED DOCUMENTS, MATERIALS, AND INFORMATION AND
23 PROPRIETARY AND TRADE SECRET DOCUMENTS AND MATERIALS, FROM
24 REGULATORY OFFICIALS OF STATE, FEDERAL, AND INTERNATIONAL
25 FINANCIAL REGULATORY AGENCIES, INCLUDING MEMBERS OF ANY
26 SUPERVISORY COLLEGE AS DESCRIBED IN SECTION 10-3-807 AND THE
27 NAIC; AND

1 (c) SHALL MAINTAIN AS CONFIDENTIAL OR PRIVILEGED ANY
2 DOCUMENTS, MATERIALS, OR INFORMATION RECEIVED WITH NOTICE OR
3 THE UNDERSTANDING THAT IT IS CONFIDENTIAL OR PRIVILEGED UNDER THE
4 LAWS OF THE JURISDICTION THAT IS THE SOURCE OF THE DOCUMENT,
5 MATERIAL, OR INFORMATION.

6 (4) THE SHARING OF INFORMATION AND DOCUMENTS BY THE
7 COMMISSIONER PURSUANT TO THIS PART 16 DOES NOT CONSTITUTE A
8 DELEGATION OF REGULATORY AUTHORITY OR RULE-MAKING, AND THE
9 COMMISSIONER IS SOLELY RESPONSIBLE FOR THE ADMINISTRATION,
10 EXECUTION, AND ENFORCEMENT OF THIS PART 16.

11 (5) NO WAIVER OF ANY APPLICABLE PRIVILEGE OR CLAIM OF
12 CONFIDENTIALITY IN THE DOCUMENTS, PROPRIETARY AND TRADE SECRET
13 MATERIALS, OR OTHER CGAD-RELATED INFORMATION OCCURS AS A
14 RESULT OF DISCLOSURE OF THE DOCUMENTS, MATERIALS, OR
15 INFORMATION TO THE COMMISSIONER UNDER THIS SECTION OR AS A
16 RESULT OF SHARING AS AUTHORIZED IN THIS PART 16.

17 **10-3-1606. Retention of third-party consultants - information**
18 **sharing.** (1) THE COMMISSIONER MAY RETAIN, AT THE EXPENSE OF AN
19 INSURER OR INSURANCE GROUP, ONE OR MORE THIRD-PARTY
20 CONSULTANTS, INCLUDING ATTORNEYS, ACTUARIES, ACCOUNTANTS, AND
21 OTHER EXPERTS WHO ARE NOT OTHERWISE MEMBERS OF THE
22 COMMISSIONER'S STAFF, AS MAY BE REASONABLY NECESSARY TO ASSIST
23 THE COMMISSIONER IN REVIEWING THE INSURER'S OR INSURANCE GROUP'S
24 CGAD AND RELATED INFORMATION OR THE INSURER'S OR INSURANCE
25 GROUP'S COMPLIANCE WITH THIS PART 16.

26 (2) ANY PERSONS RETAINED PURSUANT TO SUBSECTION (1) OF THIS
27 SECTION SHALL ACT UNDER THE DIRECTION AND CONTROL OF THE

1 COMMISSIONER AND IN A PURELY ADVISORY CAPACITY.

2 (3) THE NAIC AND THIRD-PARTY CONSULTANTS ARE SUBJECT TO
3 THE SAME CONFIDENTIALITY STANDARDS AND REQUIREMENTS
4 ESTABLISHED FOR THE COMMISSIONER IN SECTION 10-3-1605 AND
5 ELSEWHERE IN THIS PART 16.

6 (4) AS PART OF THE RETENTION PROCESS, A THIRD-PARTY
7 CONSULTANT SHALL VERIFY TO THE COMMISSIONER THAT THE
8 CONSULTANT HAS NO CONFLICT OF INTEREST, HAS INTERNAL PROCEDURES
9 IN PLACE TO PREVENT CONFLICTS OF INTEREST, AND WILL COMPLY WITH
10 THE CONFIDENTIALITY STANDARDS AND REQUIREMENTS OF THIS PART 16.
11 A THIRD-PARTY CONSULTANT SHALL ALSO PROVIDE SUCH VERIFICATION
12 TO THE INSURER OR INSURANCE GROUP WHOSE CGAD THE THIRD-PARTY
13 CONSULTANT WILL REVIEW.

14 (5) A WRITTEN AGREEMENT WITH THE NAIC OR WITH A
15 THIRD-PARTY CONSULTANT THAT GOVERNS SHARING AND USE OF
16 INFORMATION PROVIDED PURSUANT TO THIS PART 16 MUST CONTAIN THE
17 FOLLOWING PROVISIONS AND MUST EXPRESSLY REQUIRE THE WRITTEN
18 CONSENT OF THE INSURER OR INSURANCE GROUP BEFORE ANY SUCH
19 INFORMATION MAY BE PUBLICLY DISCLOSED:

20 (a) SPECIFIC PROCEDURES AND PROTOCOLS FOR MAINTAINING THE
21 CONFIDENTIALITY AND SECURITY OF CGAD-RELATED INFORMATION THAT
22 IS SHARED WITH THE NAIC OR WITH A THIRD-PARTY CONSULTANT
23 PURSUANT TO THIS PART 16;

24 (b) PROCEDURES AND PROTOCOLS FOR SHARING BY THE NAIC
25 ONLY WITH OTHER STATE REGULATORS FROM STATES IN WHICH AN
26 INSURANCE GROUP HAS DOMICILED INSURERS. THE AGREEMENT SHALL
27 PROVIDE THAT THE RECIPIENT AGREES IN WRITING TO MAINTAIN THE

1 CONFIDENTIALITY AND PRIVILEGED STATUS OF THE CGAD-RELATED
2 DOCUMENTS, MATERIALS, OR OTHER INFORMATION AND HAS VERIFIED IN
3 WRITING THE LEGAL AUTHORITY TO MAINTAIN CONFIDENTIALITY.

4 (c) A PROVISION SPECIFYING THAT OWNERSHIP OF THE
5 CGAD-RELATED INFORMATION SHARED WITH THE NAIC OR WITH A
6 THIRD-PARTY CONSULTANT REMAINS WITH THE DIVISION, AND THE NAIC'S
7 OR THIRD-PARTY CONSULTANT'S USE OF THE INFORMATION IS SUBJECT TO
8 THE DIRECTION OF THE COMMISSIONER;

9 (d) A PROVISION THAT PROHIBITS THE NAIC OR THIRD-PARTY
10 CONSULTANT FROM STORING THE INFORMATION SHARED PURSUANT TO
11 THIS PART 16 IN A PERMANENT DATABASE AFTER THE UNDERLYING
12 ANALYSIS IS COMPLETED;

13 (e) A PROVISION REQUIRING THE NAIC OR THIRD-PARTY
14 CONSULTANT TO PROVIDE PROMPT NOTICE TO THE COMMISSIONER AND TO
15 THE INSURER OR INSURANCE GROUP REGARDING ANY SUBPOENA, REQUEST
16 FOR DISCLOSURE, OR REQUEST FOR PRODUCTION OF THE INSURER'S
17 CGAD-RELATED INFORMATION; AND

18 (f) A PROVISION STATING THAT THE NAIC OR THIRD-PARTY
19 CONSULTANT CONSENTS TO INTERVENTION BY AN INSURER OR INSURANCE
20 GROUP IN ANY JUDICIAL OR ADMINISTRATIVE ACTION IN WHICH THE NAIC
21 OR THIRD-PARTY CONSULTANT MAY BE REQUIRED TO DISCLOSE
22 CONFIDENTIAL INFORMATION ABOUT THE INSURER OR INSURANCE GROUP.

23 **10-3-1607. Sanctions.** ANY INSURER OR INSURANCE GROUP THAT
24 FAILS, WITHOUT JUST CAUSE, TO TIMELY FILE A CGAD AS REQUIRED IN
25 THIS PART 16 SHALL PAY, AFTER NOTICE AND A HEARING, A PENALTY OF
26 TWO 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 OR INSURANCE
2 GROUP DEMONSTRATES TO THE COMMISSIONER THAT THE IMPOSITION OF
3 THE PENALTY WOULD CONSTITUTE A FINANCIAL HARDSHIP TO THE INSURER
4 OR INSURANCE GROUP.

5 **10-3-1608. Rules.** THE COMMISSIONER MAY, UPON NOTICE AND
6 OPPORTUNITY FOR ALL INTERESTED PERSONS TO BE HEARD, ISSUE RULES
7 AND ORDERS TO CARRY OUT THIS PART 16.

8 **SECTION 2.** In Colorado Revised Statutes, 10-3-801, **add** (4.5)
9 and (6.5) as follows:

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

12 (4.5) "GROUP-WIDE SUPERVISOR" MEANS A REGULATORY OFFICIAL
13 WHO IS AUTHORIZED TO CONDUCT AND COORDINATE GROUP-WIDE
14 SUPERVISION ACTIVITIES AND WHO IS DETERMINED OR ACKNOWLEDGED BY
15 THE COMMISSIONER PURSUANT TO SECTION 10-3-807.5 TO HAVE
16 SUFFICIENT SIGNIFICANT CONTACTS WITH AN INTERNATIONALLY ACTIVE
17 INSURANCE GROUP.

18 (6.5) "INTERNATIONALLY ACTIVE INSURANCE GROUP" MEANS AN
19 INSURANCE HOLDING COMPANY SYSTEM THAT:

20 (a) INCLUDES AN INSURER REGISTERED PURSUANT TO SECTION
21 10-3-804;

22 (b) WRITES INSURANCE PREMIUMS IN AT LEAST THREE COUNTRIES;

23 (c) WRITES INSURANCE PREMIUMS IN COUNTRIES OUTSIDE THE
24 UNITED STATES, WHICH INSURANCE PREMIUMS ACCOUNT FOR AT LEAST
25 TEN PERCENT OF THE INSURANCE HOLDING COMPANY SYSTEM'S TOTAL
26 GROSS WRITTEN PREMIUMS; AND

27 (d) HAS, BASED ON AN AVERAGE OF THE IMMEDIATELY PRECEDING

1 THREE YEARS, TOTAL ASSETS OF AT LEAST FIFTY BILLION DOLLARS OR
2 TOTAL GROSS WRITTEN PREMIUMS OF AT LEAST TEN BILLION DOLLARS.

3 **SECTION 3.** In Colorado Revised Statutes, **add** 10-3-807.5 as
4 follows:

5 **10-3-807.5. Group-wide supervision of internationally active**
6 **insurance groups - information collection - cooperation - rules.**

7 (1) (a) THE COMMISSIONER MAY ACT AS THE GROUP-WIDE SUPERVISOR
8 FOR ANY INTERNATIONALLY ACTIVE INSURANCE GROUP IN ACCORDANCE
9 WITH THIS SECTION. HOWEVER, THE COMMISSIONER, IN COOPERATION
10 WITH OTHER STATE, FEDERAL, AND INTERNATIONAL REGULATORY
11 AGENCIES, MAY DESIGNATE OR ACKNOWLEDGE ANOTHER REGULATORY
12 OFFICIAL AS THE GROUP-WIDE SUPERVISOR FOR AN INTERNATIONALLY
13 ACTIVE INSURANCE GROUP THAT:

14 (I) DOES NOT HAVE SUBSTANTIAL INSURANCE OPERATIONS IN THE
15 UNITED STATES;

16 (II) HAS SUBSTANTIAL INSURANCE OPERATIONS IN THE UNITED
17 STATES, BUT NOT IN COLORADO; OR

18 (III) HAS SUBSTANTIAL INSURANCE OPERATIONS IN THE UNITED
19 STATES AND IN COLORADO, BUT THE COMMISSIONER HAS DETERMINED
20 PURSUANT TO THE FACTORS SET FORTH IN SUBSECTIONS (2) AND (6) OF
21 THIS SECTION THAT THE OTHER REGULATORY OFFICIAL IS THE
22 APPROPRIATE GROUP-WIDE SUPERVISOR.

23 (b) AN INSURANCE HOLDING COMPANY SYSTEM THAT DOES NOT
24 QUALIFY AS AN INTERNATIONALLY ACTIVE INSURANCE GROUP MAY
25 REQUEST THAT THE COMMISSIONER DESIGNATE OR ACKNOWLEDGE A
26 GROUP-WIDE SUPERVISOR PURSUANT TO THIS SECTION.

27 (2) (a) WHEN DESIGNATING OR ACKNOWLEDGING A GROUP-WIDE

1 SUPERVISOR PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE
2 COMMISSIONER SHALL CONSIDER THE FOLLOWING FACTORS:

3 (I) THE PLACE OF DOMICILE OF THE INSURERS WITHIN THE
4 INTERNATIONALLY ACTIVE INSURANCE GROUP THAT HOLD THE LARGEST
5 SHARE OF THE GROUP'S WRITTEN PREMIUMS, ASSETS, OR LIABILITIES;

6 (II) THE PLACE OF DOMICILE OF THE TOP-TIERED INSURER OR
7 INSURERS IN THE INSURANCE HOLDING COMPANY SYSTEM OF THE
8 INTERNATIONALLY ACTIVE INSURANCE GROUP;

9 (III) THE LOCATION OF THE EXECUTIVE OFFICES OR THE LARGEST
10 OPERATIONAL OFFICES OF THE INTERNATIONALLY ACTIVE INSURANCE
11 GROUP;

12 (IV) WHETHER ANOTHER REGULATORY OFFICIAL IS ACTING OR IS
13 SEEKING TO ACT AS THE GROUP-WIDE SUPERVISOR UNDER A REGULATORY
14 SYSTEM THAT THE COMMISSIONER DETERMINES TO BE:

15 (A) SUBSTANTIALLY SIMILAR TO THE SYSTEM OF REGULATION
16 PROVIDED UNDER THE LAWS OF THIS STATE; OR

17 (B) OTHERWISE SUFFICIENT IN TERMS OF PROVIDING FOR
18 GROUP-WIDE SUPERVISION, ENTERPRISE RISK ANALYSIS, AND
19 COOPERATION WITH OTHER REGULATORY OFFICIALS; AND

20 (V) WHETHER ANOTHER REGULATORY OFFICIAL ACTING OR
21 SEEKING TO ACT AS THE GROUP-WIDE SUPERVISOR PROVIDES THE
22 COMMISSIONER WITH REASONABLY RECIPROCAL RECOGNITION AND
23 COOPERATION.

24 (b) THE COMMISSIONER SHALL DESIGNATE A REGULATORY
25 OFFICIAL OTHER THAN THE COMMISSIONER TO SERVE AS THE GROUP-WIDE
26 SUPERVISOR OF AN INTERNATIONALLY ACTIVE INSURANCE GROUP ONLY:

27 (I) AFTER CONSIDERATION OF THE FACTORS LISTED IN SUBSECTION

1 (2)(a) OF THIS SECTION;

2 (II) IN COOPERATION WITH AND SUBJECT TO THE
3 ACKNOWLEDGMENT OF OTHER REGULATORY OFFICIALS INVOLVED WITH
4 SUPERVISION OF MEMBERS OF THE INTERNATIONALLY ACTIVE INSURANCE
5 GROUP; AND

6 (III) IN CONSULTATION WITH THE INTERNATIONALLY ACTIVE
7 INSURANCE GROUP.

8 (3) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, WHEN
9 ANOTHER REGULATORY OFFICIAL IS ACTING AS THE GROUP-WIDE
10 SUPERVISOR OF AN INTERNATIONALLY ACTIVE INSURANCE GROUP, THE
11 COMMISSIONER SHALL ACKNOWLEDGE THAT REGULATORY OFFICIAL AS
12 THE GROUP-WIDE SUPERVISOR. HOWEVER, THE COMMISSIONER SHALL
13 MAKE A NEW DESIGNATION OR ACKNOWLEDGMENT AS TO THE
14 APPROPRIATE GROUP-WIDE SUPERVISOR FOR THE INTERNATIONALLY
15 ACTIVE INSURANCE GROUP IN THE EVENT OF A MATERIAL CHANGE THAT
16 RESULTS IN:

17 (a) THE INTERNATIONALLY ACTIVE INSURANCE GROUP'S INSURERS
18 DOMICILED IN THIS STATE HOLDING THE LARGEST SHARE OF THE GROUP'S
19 PREMIUMS, ASSETS, OR LIABILITIES; OR

20 (b) THIS STATE BEING THE PLACE OF DOMICILE OF THE TOP-TIERED
21 INSURER OR INSURERS IN THE INSURANCE HOLDING COMPANY SYSTEM OF
22 THE INTERNATIONALLY ACTIVE INSURANCE GROUP.

23 (4) PURSUANT TO SECTION 10-3-806, THE COMMISSIONER MAY
24 COLLECT FROM ANY INSURER REGISTERED PURSUANT TO SECTION 10-3-804
25 ALL INFORMATION NECESSARY TO DETERMINE WHETHER THE
26 COMMISSIONER MAY ACT AS THE GROUP-WIDE SUPERVISOR OF AN
27 INTERNATIONALLY ACTIVE INSURANCE GROUP OR ACKNOWLEDGE

1 ANOTHER REGULATORY OFFICIAL TO ACT AS THE GROUP-WIDE
2 SUPERVISOR. PRIOR TO ISSUING A DETERMINATION THAT AN
3 INTERNATIONALLY ACTIVE INSURANCE GROUP IS SUBJECT TO GROUP-WIDE
4 SUPERVISION BY THE COMMISSIONER, THE COMMISSIONER SHALL NOTIFY
5 THE INSURER AND THE ULTIMATE CONTROLLING PERSON WITHIN THE
6 INTERNATIONALLY ACTIVE INSURANCE GROUP OF THE PENDING
7 DETERMINATION. AFTER RECEIVING SUCH NOTICE, THE INTERNATIONALLY
8 ACTIVE INSURANCE GROUP HAS THIRTY DAYS TO PROVIDE THE
9 COMMISSIONER WITH ADDITIONAL INFORMATION PERTINENT TO THE
10 PENDING DETERMINATION. THE COMMISSIONER SHALL PUBLISH IN THE
11 COLORADO REGISTER AND ON THE COMMISSIONER'S WEBSITE THE
12 IDENTITY OF INTERNATIONALLY ACTIVE INSURANCE GROUPS THAT THE
13 COMMISSIONER HAS DETERMINED ARE SUBJECT TO GROUP-WIDE
14 SUPERVISION BY THE COMMISSIONER.

15 (5) IF THE COMMISSIONER IS THE GROUP-WIDE SUPERVISOR FOR AN
16 INTERNATIONALLY ACTIVE INSURANCE GROUP, THE COMMISSIONER MAY
17 ENGAGE IN ANY OF THE FOLLOWING GROUP-WIDE SUPERVISION ACTIVITIES:

18 (a) ASSESS THE ENTERPRISE RISKS WITHIN THE INTERNATIONALLY
19 ACTIVE INSURANCE GROUP TO ENSURE THAT:

20 (I) THE MATERIAL FINANCIAL CONDITION AND LIQUIDITY RISKS TO
21 THE MEMBERS OF THE INTERNATIONALLY ACTIVE INSURANCE GROUP THAT
22 ARE ENGAGED IN THE BUSINESS OF INSURANCE ARE IDENTIFIED BY
23 MANAGEMENT; AND

24 (II) REASONABLE AND EFFECTIVE MITIGATION MEASURES ARE IN
25 PLACE;

26 (b) REQUEST, FROM ANY MEMBER OF AN INTERNATIONALLY
27 ACTIVE INSURANCE GROUP SUBJECT TO THE COMMISSIONER'S SUPERVISION,

1 INFORMATION NECESSARY AND APPROPRIATE TO ASSESS ENTERPRISE RISK,
2 INCLUDING INFORMATION ABOUT THE MEMBERS OF THE INTERNATIONALLY
3 ACTIVE INSURANCE GROUP REGARDING:

4 (I) GOVERNANCE, RISK ASSESSMENT, AND MANAGEMENT;

5 (II) CAPITAL ADEQUACY; AND

6 (III) MATERIAL INTERCOMPANY TRANSACTIONS;

7 (c) COORDINATE AND, THROUGH THE AUTHORITY OF THE
8 REGULATORY OFFICIALS OF THE JURISDICTIONS WHERE MEMBERS OF THE
9 INTERNATIONALLY ACTIVE INSURANCE GROUP ARE DOMICILED, COMPEL
10 DEVELOPMENT AND IMPLEMENTATION OF REASONABLE MEASURES
11 DESIGNED TO ENSURE THAT THE INTERNATIONALLY ACTIVE INSURANCE
12 GROUP IS ABLE TO TIMELY RECOGNIZE AND MITIGATE ENTERPRISE RISKS TO
13 MEMBERS OF THE INTERNATIONALLY ACTIVE INSURANCE GROUP THAT ARE
14 ENGAGED IN THE BUSINESS OF INSURANCE;

15 (d) COMMUNICATE WITH OTHER STATE, FEDERAL, AND
16 INTERNATIONAL REGULATORY AGENCIES FOR MEMBERS WITHIN THE
17 INTERNATIONALLY ACTIVE INSURANCE GROUP AND SHARE RELEVANT
18 INFORMATION, SUBJECT TO THE CONFIDENTIALITY PROVISIONS OF SECTION
19 10-3-808, WHETHER THROUGH SUPERVISORY COLLEGES AS SET FORTH IN
20 SECTION 10-3-807 OR OTHERWISE;

21 (e) ENTER INTO AGREEMENTS WITH OR OBTAIN DOCUMENTATION
22 FROM ANY INSURER REGISTERED UNDER SECTION 10-3-804, ANY MEMBER
23 OF THE INTERNATIONALLY ACTIVE INSURANCE GROUP, AND ANY OTHER
24 STATE, FEDERAL, OR INTERNATIONAL REGULATORY AGENCIES FOR
25 MEMBERS OF THE INTERNATIONALLY ACTIVE INSURANCE GROUP,
26 PROVIDING THE BASIS FOR OR OTHERWISE CLARIFYING THE
27 COMMISSIONER'S ROLE AS GROUP-WIDE SUPERVISOR, INCLUDING

1 PROVISIONS FOR RESOLVING DISPUTES WITH OTHER REGULATORY
2 OFFICIALS; AND

3 (f) OTHER GROUP-WIDE SUPERVISION ACTIVITIES, CONSISTENT
4 WITH THE AUTHORITIES AND PURPOSES DESCRIBED IN THIS SUBSECTION (5),
5 AS THE COMMISSIONER CONSIDERS NECESSARY.

6 (6) IF THE COMMISSIONER ACKNOWLEDGES THAT ANOTHER
7 REGULATORY OFFICIAL FROM A JURISDICTION THAT IS NOT ACCREDITED BY
8 THE NAIC IS THE GROUP-WIDE SUPERVISOR, THE COMMISSIONER MAY
9 REASONABLY COOPERATE, THROUGH SUPERVISORY COLLEGES OR
10 OTHERWISE, WITH GROUP-WIDE SUPERVISION UNDERTAKEN BY THE
11 GROUP-WIDE SUPERVISOR, SO LONG AS:

12 (a) THE COMMISSIONER'S COOPERATION IS IN COMPLIANCE WITH
13 THE LAWS OF THIS STATE; AND

14 (b) THE REGULATORY OFFICIAL ACKNOWLEDGED AS THE
15 GROUP-WIDE SUPERVISOR ALSO RECOGNIZES AND COOPERATES WITH THE
16 COMMISSIONER'S ACTIVITIES AS A GROUP-WIDE SUPERVISOR FOR OTHER
17 INTERNATIONALLY ACTIVE INSURANCE GROUPS WHERE APPLICABLE.
18 WHERE SUCH RECOGNITION AND COOPERATION IS NOT REASONABLY
19 RECIPROCAL, THE COMMISSIONER MAY REFUSE RECOGNITION AND
20 COOPERATION.

21 (7) THE COMMISSIONER MAY ENTER INTO AGREEMENTS WITH OR
22 OBTAIN DOCUMENTATION FROM ANY INSURER REGISTERED UNDER
23 SECTION 10-3-804, ANY AFFILIATE OF THE INSURER, OR ANY OTHER STATE,
24 FEDERAL, OR INTERNATIONAL REGULATORY AGENCY FOR MEMBERS OF THE
25 INTERNATIONALLY ACTIVE INSURANCE GROUP, WHICH AGENCY PROVIDES
26 THE BASIS FOR OR OTHERWISE CLARIFIES A REGULATORY OFFICIAL'S ROLE
27 AS GROUP-WIDE SUPERVISOR.

1 (8) THE COMMISSIONER MAY PROMULGATE RULES NECESSARY FOR
2 THE ADMINISTRATION OF THIS SECTION.

3 (9) A REGISTERED INSURER SUBJECT TO THIS SECTION IS LIABLE
4 FOR AND SHALL PAY THE REASONABLE EXPENSES OF THE COMMISSIONER'S
5 PARTICIPATION IN THE ADMINISTRATION OF THIS SECTION, INCLUDING THE
6 ENGAGEMENT OF ATTORNEYS, ACTUARIES, AND ANY OTHER
7 PROFESSIONALS AND ALL REASONABLE TRAVEL EXPENSES.

8 **SECTION 4.** In Colorado Revised Statutes, 10-16-412, **amend**
9 (3)(a)(IV) as follows:

10 **10-16-412. Statutory deposit.** (3) Health maintenance
11 organizations shall establish and maintain the following minimum
12 deposits:

13 (a) The following schedule, based upon enrollment levels
14 achieved on December 31 of the preceding year:

15 (IV) \$300,000: Enrollment of ~~not~~ less than 60,000;

16 **SECTION 5. Act subject to petition - effective date.** This act
17 takes effect at 12:01 a.m. on the day following the expiration of the
18 ninety-day period after final adjournment of the general assembly (August
19 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
20 referendum petition is filed pursuant to section 1 (3) of article V of the
21 state constitution against this act or an item, section, or part of this act
22 within such period, then the act, item, section, or part will not take effect
23 unless approved by the people at the general election to be held in
24 November 2020 and, in such case, will take effect on the date of the
25 official declaration of the vote thereon by the governor.