

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

**PREAMENDED**

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

LLS NO. 19-1000.01 Richard Sweetman x4333

**HOUSE BILL 19-1291**

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**HOUSE SPONSORSHIP**

**Arndt,**

**SENATE SPONSORSHIP**

**Williams A. and Tate,**

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**House Committees**  
Business Affairs & Labor

**Senate Committees**

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**A BILL FOR AN ACT**

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

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**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.



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 PURSUANT TO SECTION  
11 10-3-804 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 SHALL, 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 DESIGNATED OR ACKNOWLEDGED BY  
15 THE COMMISSIONER PURSUANT TO SECTION 10-3-807.5.

16 (6.5) "INTERNATIONALLY ACTIVE INSURANCE GROUP" MEANS AN  
17 INSURANCE HOLDING COMPANY SYSTEM THAT:

18 (a) INCLUDES AN INSURER REGISTERED PURSUANT TO SECTION  
19 10-3-804;

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

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

25 (d) HAS, BASED ON AN AVERAGE OF THE IMMEDIATELY PRECEDING  
26 THREE YEARS, TOTAL ASSETS OF AT LEAST FIFTY BILLION DOLLARS OR  
27 TOTAL GROSS WRITTEN PREMIUMS OF AT LEAST TEN BILLION DOLLARS.

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

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

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

12           (I) DOES NOT HAVE SUBSTANTIAL INSURANCE OPERATIONS IN THE  
13 UNITED STATES;

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

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

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

25           (2) (a) WHEN DESIGNATING OR ACKNOWLEDGING A GROUP-WIDE  
26 SUPERVISOR PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE  
27 COMMISSIONER SHALL CONSIDER THE FOLLOWING FACTORS:

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

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

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

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

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

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

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

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

25 (I) AFTER CONSIDERATION OF THE FACTORS LISTED IN SUBSECTION  
26 (2)(a) OF THIS SECTION;

27 (II) IN COOPERATION WITH AND SUBJECT TO THE

1 ACKNOWLEDGMENT OF OTHER REGULATORY OFFICIALS INVOLVED WITH  
2 SUPERVISION OF MEMBERS OF THE INTERNATIONALLY ACTIVE INSURANCE  
3 GROUP; AND

4 (III) IN CONSULTATION WITH THE INTERNATIONALLY ACTIVE  
5 INSURANCE GROUP.

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

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

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

21 (4) PURSUANT TO SECTION 10-3-806, THE COMMISSIONER MAY  
22 COLLECT FROM ANY INSURER REGISTERED PURSUANT TO SECTION 10-3-804  
23 ALL INFORMATION NECESSARY TO DETERMINE WHETHER THE  
24 COMMISSIONER MAY ACT AS THE GROUP-WIDE SUPERVISOR OF AN  
25 INTERNATIONALLY ACTIVE INSURANCE GROUP OR ACKNOWLEDGE  
26 ANOTHER REGULATORY OFFICIAL TO ACT AS THE GROUP-WIDE  
27 SUPERVISOR. PRIOR TO ISSUING A DETERMINATION THAT AN

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

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

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

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

22 (II) REASONABLE AND EFFECTIVE MITIGATION MEASURES ARE IN  
23 PLACE;

24 (b) REQUEST, FROM ANY MEMBER OF AN INTERNATIONALLY  
25 ACTIVE INSURANCE GROUP SUBJECT TO THE COMMISSIONER'S SUPERVISION,  
26 INFORMATION NECESSARY AND APPROPRIATE TO ASSESS ENTERPRISE RISK,  
27 INCLUDING INFORMATION ABOUT THE MEMBERS OF THE INTERNATIONALLY



1 ACTIVE INSURANCE GROUP REGARDING:

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

3 (II) CAPITAL ADEQUACY; AND

4 (III) MATERIAL INTERCOMPANY TRANSACTIONS;

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

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

19 (e) ENTER INTO AGREEMENTS WITH OR OBTAIN DOCUMENTATION  
20 FROM ANY INSURER REGISTERED UNDER SECTION 10-3-804, ANY MEMBER  
21 OF THE INTERNATIONALLY ACTIVE INSURANCE GROUP, AND ANY OTHER  
22 STATE, FEDERAL, OR INTERNATIONAL REGULATORY AGENCIES FOR  
23 MEMBERS OF THE INTERNATIONALLY ACTIVE INSURANCE GROUP,  
24 PROVIDING THE BASIS FOR OR OTHERWISE CLARIFYING THE  
25 COMMISSIONER'S ROLE AS GROUP-WIDE SUPERVISOR, INCLUDING  
26 PROVISIONS FOR RESOLVING DISPUTES WITH OTHER REGULATORY  
27 OFFICIALS. SUCH AGREEMENTS OR DOCUMENTATION MAY NOT SERVE AS

1 EVIDENCE IN ANY PROCEEDING THAT AN INSURER OR A PERSON WITHIN AN  
2 INSURANCE HOLDING COMPANY SYSTEM, WHICH INSURER OR PERSON IS  
3 NOT DOMICILED OR INCORPORATED IN THIS STATE, IS DOING BUSINESS IN  
4 THIS STATE OR IS OTHERWISE SUBJECT TO JURISDICTION IN THIS STATE.

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

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

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

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

23 (7) THE COMMISSIONER MAY ENTER INTO AGREEMENTS WITH OR  
24 OBTAIN DOCUMENTATION FROM ANY INSURER REGISTERED UNDER  
25 SECTION 10-3-804, ANY AFFILIATE OF THE INSURER, OR ANY OTHER STATE,  
26 FEDERAL, OR INTERNATIONAL REGULATORY AGENCY FOR MEMBERS OF THE  
27 INTERNATIONALLY ACTIVE INSURANCE GROUP, WHICH AGENCY PROVIDES

1 THE BASIS FOR OR OTHERWISE CLARIFIES A REGULATORY OFFICIAL'S ROLE  
2 AS GROUP-WIDE SUPERVISOR.

3 (8) THE COMMISSIONER MAY PROMULGATE RULES NECESSARY FOR  
4 THE ADMINISTRATION OF THIS SECTION.

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

10 **SECTION 4.** In Colorado Revised Statutes, 10-16-302, **amend**  
11 **(1)** as follows:

12 **10-16-302. Incorporation and organization - exemptions.**

13 (1) Any nonprofit corporation organized under the laws of ~~the state of~~  
14 Colorado for the purpose of establishing, maintaining, and operating a  
15 nonprofit plan whereby prepaid hospital care, medical-surgical care, and  
16 other health services are made available to persons who become  
17 subscribers to ~~such~~ THE plan under a contract with the corporation, or for  
18 the purpose of providing long-term care insurance to persons pursuant to  
19 a contract with the corporation ~~shall be~~ ARE subject to and governed by  
20 ~~the provisions of part 1 of this article~~ ARTICLE 16 and this part 3 and,  
21 except as provided in this ~~article~~ ARTICLE 16 and elsewhere in this ~~title,~~  
22 ~~shall~~ TITLE 10, ARE not ~~be~~ subject to the laws of this state relating to  
23 insurance or insurance companies. The provisions of section 10-3-128;  
24 articles 1 and 2 of this ~~title~~ TITLE 10; and parts 4, 5, 7, 8, 11, ~~and~~ 12, AND  
25 16 of article 3 of this ~~title~~ TITLE 10, to the extent applicable, ~~shall~~ govern  
26 corporations organized pursuant to ~~the provisions of this part 3.~~

27 **SECTION 5.** In Colorado Revised Statutes, 10-16-412, **amend**

1 (3)(a)(IV) as follows:

2 **10-16-412. Statutory deposit.** (3) Health maintenance  
3 organizations shall establish and maintain the following minimum  
4 deposits:

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

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

8 **SECTION 6. Act subject to petition - effective date.** This act  
9 takes effect at 12:01 a.m. on the day following the expiration of the  
10 ninety-day period after final adjournment of the general assembly (August  
11 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a  
12 referendum petition is filed pursuant to section 1 (3) of article V of the  
13 state constitution against this act or an item, section, or part of this act  
14 within such period, then the act, item, section, or part will not take effect  
15 unless approved by the people at the general election to be held in  
16 November 2020 and, in such case, will take effect on the date of the  
17 official declaration of the vote thereon by the governor.