

CHAPTER 188

INSURANCE

HOUSE BILL 19-1291

BY REPRESENTATIVE(S) Arndt, Hansen;
also SENATOR(S) Williams A. and Tate.

AN ACT

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

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

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

PART 16
CORPORATE GOVERNANCE ANNUAL DISCLOSURES

10-3-1601. Purpose and scope - applicability - legislative declaration.

(1) THE PURPOSE OF THIS PART 16 IS TO:

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

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

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

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

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

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

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

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

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

(2) "INSURANCE GROUP" MEANS THOSE INSURERS AND AFFILIATES THAT ARE INCLUDED WITHIN AN INSURANCE HOLDING COMPANY SYSTEM, AS DEFINED IN SECTION 10-3-801 (5).

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

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

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

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

(2) THE CGAD MUST INCLUDE THE SIGNATURE OF THE INSURER OR INSURANCE GROUP'S CHIEF EXECUTIVE OFFICER OR CORPORATE SECRETARY ATTESTING THAT, TO

THE BEST OF THAT INDIVIDUAL'S BELIEF AND KNOWLEDGE:

(a) THE INSURER OR INSURANCE GROUP HAS IMPLEMENTED THE CORPORATE GOVERNANCE PRACTICES; AND

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

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

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

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

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

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

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

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

(6) INSURERS AND INSURANCE GROUPS THAT PROVIDE TO THE COMMISSIONER OTHER DOCUMENTS THAT INCLUDE INFORMATION SUBSTANTIALLY SIMILAR TO THE INFORMATION REQUIRED BY THIS PART 16, INCLUDING PROXY STATEMENTS FILED PURSUANT TO SECTION 10-3-804 AND OTHER STATE OR FEDERAL FILINGS PROVIDED TO THE DIVISION, ARE NOT REQUIRED TO DUPLICATE THAT INFORMATION IN THE CGAD BUT SHALL INCLUDE IN THE CGAD CROSS REFERENCES INDICATING WHICH DOCUMENT OR DOCUMENTS INCLUDE THE INFORMATION.

10-3-1604. Contents of corporate governance annual disclosure - rules.

(1) IN RESPONDING TO A REQUEST FOR CGAD-RELATED INFORMATION, AN INSURER

OR INSURANCE GROUP MAY EXERCISE ITS DISCRETION SO LONG AS ITS CGAD PROVIDES THE COMMISSIONER SUFFICIENT INFORMATION TO UNDERSTAND THE INSURER'S OR INSURANCE GROUP'S CORPORATE GOVERNANCE STRUCTURE, POLICIES, AND PRACTICES. THE COMMISSIONER MAY REQUEST THAT AN INSURER OR INSURANCE GROUP PROVIDE ADDITIONAL INFORMATION FOR THIS PURPOSE.

(2) NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION, EACH INSURER AND INSURANCE GROUP SHALL PREPARE EACH CGAD IN COMPLIANCE WITH THIS PART 16 AND WITH REQUIREMENTS ESTABLISHED PURSUANT TO RULES PROMULGATED BY THE COMMISSIONER PURSUANT TO SECTION 10-3-1608. EACH INSURER AND INSURANCE GROUP THAT SUBMITS A CGAD SHALL MAINTAIN DOCUMENTATION AND SUPPORTING INFORMATION AND MAKE SUCH DOCUMENTATION AND SUPPORTING INFORMATION AVAILABLE UPON REQUEST OF THE COMMISSIONER.

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

(2) NEITHER THE COMMISSIONER NOR ANY PERSON WHO RECEIVED DOCUMENTS, MATERIALS, OR OTHER CGAD-RELATED INFORMATION THROUGH EXAMINATION OR OTHERWISE WHILE ACTING UNDER THE AUTHORITY OF THE COMMISSIONER, OR WITH WHOM SUCH DOCUMENTS, MATERIALS, OR OTHER INFORMATION ARE SHARED PURSUANT TO THIS PART 16, MAY BE PERMITTED OR REQUIRED TO TESTIFY IN ANY PRIVATE CIVIL ACTION CONCERNING ANY CONFIDENTIAL DOCUMENTS, MATERIALS, OR INFORMATION SUBJECT TO SUBSECTION (1) OF THIS SECTION.

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

(a) MAY, UPON REQUEST AND SUBJECT TO SUBSECTION (1) OF THIS SECTION, SHARE DOCUMENTS, MATERIALS, AND OTHER CGAD-RELATED INFORMATION, INCLUDING CONFIDENTIAL AND PRIVILEGED DOCUMENTS, MATERIALS, AND INFORMATION AND PROPRIETARY AND TRADE SECRET DOCUMENTS AND MATERIALS, WITH OTHER STATE, FEDERAL, AND INTERNATIONAL FINANCIAL REGULATORY AGENCIES, INCLUDING MEMBERS OF ANY SUPERVISORY COLLEGE, AS DESCRIBED IN SECTION 10-3-807; THE NAIC; AND THIRD-PARTY CONSULTANTS PURSUANT TO

SECTION 10-3-1606 SO LONG AS THE RECIPIENT AGREES IN WRITING TO MAINTAIN THE CONFIDENTIALITY AND PRIVILEGED STATUS OF THE CGAD-RELATED DOCUMENTS, MATERIAL, OR OTHER INFORMATION AND HAS VERIFIED IN WRITING THE LEGAL AUTHORITY TO MAINTAIN CONFIDENTIALITY;

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

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

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

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

10-3-1606. Retention of third-party consultants - information sharing.

(1) THE COMMISSIONER MAY RETAIN, AT THE EXPENSE OF AN INSURER OR INSURANCE GROUP, ONE OR MORE THIRD-PARTY CONSULTANTS, INCLUDING ATTORNEYS, ACTUARIES, ACCOUNTANTS, AND OTHER EXPERTS WHO ARE NOT OTHERWISE MEMBERS OF THE COMMISSIONER'S STAFF, AS MAY BE REASONABLY NECESSARY TO ASSIST THE COMMISSIONER IN REVIEWING THE INSURER'S OR INSURANCE GROUP'S CGAD AND RELATED INFORMATION OR THE INSURER'S OR INSURANCE GROUP'S COMPLIANCE WITH THIS PART 16.

(2) ANY PERSONS RETAINED PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL ACT UNDER THE DIRECTION AND CONTROL OF THE COMMISSIONER AND IN A PURELY ADVISORY CAPACITY.

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

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

THIRD-PARTY CONSULTANT WILL REVIEW.

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

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

(b) PROCEDURES AND PROTOCOLS FOR SHARING BY THE NAIC ONLY WITH OTHER STATE REGULATORS FROM STATES IN WHICH AN INSURANCE GROUP HAS DOMICILED INSURERS. THE AGREEMENT SHALL PROVIDE THAT THE RECIPIENT AGREES IN WRITING TO MAINTAIN THE CONFIDENTIALITY AND PRIVILEGED STATUS OF THE CGAD-RELATED DOCUMENTS, MATERIALS, OR OTHER INFORMATION AND HAS VERIFIED IN WRITING THE LEGAL AUTHORITY TO MAINTAIN CONFIDENTIALITY.

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

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

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

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

10-3-1607. Sanctions. ANY INSURER OR INSURANCE GROUP THAT FAILS, WITHOUT JUST CAUSE, TO TIMELY FILE A CGAD AS REQUIRED IN THIS PART 16 SHALL PAY, AFTER NOTICE AND A HEARING, A PENALTY OF TWO HUNDRED DOLLARS FOR EACH DAY'S DELAY. THE MAXIMUM PENALTY UNDER THIS SECTION IS TWENTY-FIVE THOUSAND DOLLARS. THE COMMISSIONER MAY REDUCE THE PENALTY IF THE INSURER OR INSURANCE GROUP DEMONSTRATES TO THE COMMISSIONER THAT THE IMPOSITION OF THE PENALTY WOULD CONSTITUTE A FINANCIAL HARDSHIP TO THE INSURER OR INSURANCE GROUP.

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

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

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

(4.5) "GROUP-WIDE SUPERVISOR" MEANS A REGULATORY OFFICIAL WHO IS AUTHORIZED TO CONDUCT AND COORDINATE GROUP-WIDE SUPERVISION ACTIVITIES AND WHO IS DESIGNATED OR ACKNOWLEDGED BY THE COMMISSIONER PURSUANT TO SECTION 10-3-807.5.

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

- (a) INCLUDES AN INSURER REGISTERED PURSUANT TO SECTION 10-3-804;
- (b) WRITES INSURANCE PREMIUMS IN AT LEAST THREE COUNTRIES;
- (c) WRITES INSURANCE PREMIUMS IN COUNTRIES OUTSIDE THE UNITED STATES, WHICH INSURANCE PREMIUMS ACCOUNT FOR AT LEAST TEN PERCENT OF THE INSURANCE HOLDING COMPANY SYSTEM'S TOTAL GROSS WRITTEN PREMIUMS; AND
- (d) HAS, BASED ON AN AVERAGE OF THE IMMEDIATELY PRECEDING THREE YEARS, TOTAL ASSETS OF AT LEAST FIFTY BILLION DOLLARS OR TOTAL GROSS WRITTEN PREMIUMS OF AT LEAST TEN BILLION DOLLARS.

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

10-3-807.5. Group-wide supervision of internationally active insurance groups - information collection - cooperation - rules. (1) (a) THE COMMISSIONER MAY ACT AS THE GROUP-WIDE SUPERVISOR FOR ANY INTERNATIONALLY ACTIVE INSURANCE GROUP IN ACCORDANCE WITH THIS SECTION. HOWEVER, THE COMMISSIONER, IN COOPERATION WITH OTHER STATE, FEDERAL, AND INTERNATIONAL REGULATORY AGENCIES, MAY DESIGNATE OR ACKNOWLEDGE ANOTHER REGULATORY OFFICIAL AS THE GROUP-WIDE SUPERVISOR FOR AN INTERNATIONALLY ACTIVE INSURANCE GROUP THAT:

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

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

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

(b) AN INSURANCE HOLDING COMPANY SYSTEM THAT DOES NOT QUALIFY AS AN INTERNATIONALLY ACTIVE INSURANCE GROUP MAY REQUEST THAT THE COMMISSIONER DESIGNATE OR ACKNOWLEDGE A GROUP-WIDE SUPERVISOR

PURSUANT TO THIS SECTION.

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

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

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

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

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

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

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

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

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

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

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

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

(3) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, WHEN ANOTHER REGULATORY OFFICIAL IS ACTING AS THE GROUP-WIDE SUPERVISOR OF AN INTERNATIONALLY ACTIVE INSURANCE GROUP, THE COMMISSIONER SHALL ACKNOWLEDGE THAT REGULATORY OFFICIAL AS THE GROUP-WIDE SUPERVISOR. HOWEVER, THE COMMISSIONER SHALL MAKE A NEW DESIGNATION OR ACKNOWLEDGMENT AS TO THE APPROPRIATE GROUP-WIDE SUPERVISOR FOR THE

INTERNATIONALLY ACTIVE INSURANCE GROUP IN THE EVENT OF A MATERIAL CHANGE THAT RESULTS IN:

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

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

(4) PURSUANT TO SECTION 10-3-806, THE COMMISSIONER MAY COLLECT FROM ANY INSURER REGISTERED PURSUANT TO SECTION 10-3-804 ALL INFORMATION NECESSARY TO DETERMINE WHETHER THE COMMISSIONER MAY ACT AS THE GROUP-WIDE SUPERVISOR OF AN INTERNATIONALLY ACTIVE INSURANCE GROUP OR ACKNOWLEDGE ANOTHER REGULATORY OFFICIAL TO ACT AS THE GROUP-WIDE SUPERVISOR. PRIOR TO ISSUING A DETERMINATION THAT AN INTERNATIONALLY ACTIVE INSURANCE GROUP IS SUBJECT TO GROUP-WIDE SUPERVISION BY THE COMMISSIONER, THE COMMISSIONER SHALL NOTIFY THE INSURER AND THE ULTIMATE CONTROLLING PERSON WITHIN THE INTERNATIONALLY ACTIVE INSURANCE GROUP OF THE PENDING DETERMINATION. AFTER RECEIVING SUCH NOTICE, THE INTERNATIONALLY ACTIVE INSURANCE GROUP HAS THIRTY DAYS TO PROVIDE THE COMMISSIONER WITH ADDITIONAL INFORMATION PERTINENT TO THE PENDING DETERMINATION. THE COMMISSIONER SHALL PUBLISH IN THE COLORADO REGISTER AND ON THE DIVISION'S WEBSITE THE IDENTITY OF INTERNATIONALLY ACTIVE INSURANCE GROUPS THAT THE COMMISSIONER HAS DETERMINED ARE SUBJECT TO GROUP-WIDE SUPERVISION BY THE COMMISSIONER.

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

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

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

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

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

(I) GOVERNANCE, RISK ASSESSMENT, AND MANAGEMENT;

(II) CAPITAL ADEQUACY; AND

(III) MATERIAL INTERCOMPANY TRANSACTIONS;

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

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

(e) ENTER INTO AGREEMENTS WITH OR OBTAIN DOCUMENTATION FROM ANY INSURER REGISTERED UNDER SECTION 10-3-804, ANY MEMBER OF THE INTERNATIONALLY ACTIVE INSURANCE GROUP, AND ANY OTHER STATE, FEDERAL, OR INTERNATIONAL REGULATORY AGENCIES FOR MEMBERS OF THE INTERNATIONALLY ACTIVE INSURANCE GROUP, PROVIDING THE BASIS FOR OR OTHERWISE CLARIFYING THE COMMISSIONER'S ROLE AS GROUP-WIDE SUPERVISOR, INCLUDING PROVISIONS FOR RESOLVING DISPUTES WITH OTHER REGULATORY OFFICIALS. SUCH AGREEMENTS OR DOCUMENTATION MAY NOT SERVE AS EVIDENCE IN ANY PROCEEDING THAT AN INSURER OR A PERSON WITHIN AN INSURANCE HOLDING COMPANY SYSTEM, WHICH INSURER OR PERSON IS NOT DOMICILED OR INCORPORATED IN THIS STATE, IS DOING BUSINESS IN THIS STATE OR IS OTHERWISE SUBJECT TO JURISDICTION IN THIS STATE.

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

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

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

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

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

REGULATORY OFFICIAL'S ROLE AS GROUP-WIDE SUPERVISOR.

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

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

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

10-16-302. Incorporation and organization - exemptions. (1) Any nonprofit corporation organized under the laws of ~~the state of~~ Colorado for the purpose of establishing, maintaining, and operating a nonprofit plan whereby prepaid hospital care, medical-surgical care, and other health services are made available to persons who become subscribers to ~~such~~ THE plan under a contract with the corporation, or for the purpose of providing long-term care insurance to persons pursuant to a contract with the corporation ~~shall be~~ IS subject to and governed by ~~the provisions of part 1 of this article~~ ARTICLE 16 and this part 3 and, except as provided in this ~~article~~ ARTICLE 16 and elsewhere in this ~~title, shall~~ TITLE 10, IS not be subject to the laws of this state relating to insurance or insurance companies. The provisions of section 10-3-128; articles 1 and 2 of this ~~title~~ TITLE 10; and parts 4, 5, 7, 8, 11, ~~and~~ 12, AND 16 of article 3 of this ~~title~~ TITLE 10, to the extent applicable, ~~shall~~ govern corporations organized pursuant to ~~the provisions of this part 3.~~

SECTION 5. In Colorado Revised Statutes, 10-16-412, **amend** (3)(a)(IV) as follows:

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

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

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

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

Approved: May 16, 2019