

CHAPTER 252

INSURANCE

HOUSE BILL 24-1321

BY REPRESENTATIVE(S) Brown and Taggart, Amabile, Bird, Clifford, Jodeh, Marshall, Ortiz, Titone, Velasco, McCluskie;
also SENATOR(S) Roberts and Hinrichsen, Kolker, Priola.

AN ACT

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

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

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

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

(4.3) "GROUP CAPITAL CALCULATION INSTRUCTIONS" MEANS THE GROUP CAPITAL CALCULATION INSTRUCTIONS ADOPTED AND AMENDED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS.

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

(8.5) "SCOPE CRITERIA" MEANS THE DESIGNATED EXPOSURE BASES, ALONG WITH MINIMUM MAGNITUDES OF EXPOSURE BASES FOR THE SPECIFIED DATA YEAR, USED TO ESTABLISH A PRELIMINARY LIST OF INSURERS CONSIDERED SCOPED INTO THE NAIC LIQUIDITY STRESS TEST FRAMEWORK FOR THAT DATA YEAR.

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

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.

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

(b) EXCEPT AS PROVIDED IN SUBSECTIONS (12)(b)(I) TO (12)(b)(IV) AND (12)(c) TO (12)(e) OF THIS SECTION, THE ULTIMATE CONTROLLING PERSON OF EACH INSURER SUBJECT TO REGISTRATION SHALL CONCURRENTLY FILE WITH THE REGISTRATION AN ANNUAL GROUP CAPITAL CALCULATION AS DIRECTED BY THE LEAD STATE COMMISSIONER. THE REPORT MUST BE COMPLETED IN ACCORDANCE WITH THE NAIC GROUP CAPITAL CALCULATION INSTRUCTIONS, WHICH MAY PERMIT THE LEAD STATE COMMISSIONER TO ALLOW A CONTROLLING PERSON THAT IS NOT THE ULTIMATE CONTROLLING PERSON TO FILE THE GROUP CAPITAL CALCULATION. THE REPORT MUST BE FILED WITH THE LEAD STATE COMMISSIONER OF THE INSURANCE HOLDING COMPANY SYSTEM AS DIRECTED BY THE LEAD STATE COMMISSIONER IN ACCORDANCE WITH THE PROCEDURES WITHIN THE FINANCIAL ANALYSIS HANDBOOK ADOPTED BY THE NAIC. THE FOLLOWING INSURANCE HOLDING COMPANY SYSTEMS ARE EXEMPT FROM FILING THE GROUP CAPITAL CALCULATION:

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

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

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

(IV) AN INSURANCE HOLDING COMPANY SYSTEM:

(A) THAT PROVIDES INFORMATION TO THE LEAD STATE COMMISSIONER THAT MEETS THE REQUIREMENTS FOR ACCREDITATION UNDER THE NAIC FINANCIAL STANDARDS AND ACCREDITATION PROGRAM, EITHER DIRECTLY OR INDIRECTLY THROUGH THE GROUP-WIDE SUPERVISOR, WHO HAS DETERMINED SUCH INFORMATION IS SATISFACTORY TO ALLOW THE LEAD STATE COMMISSIONER TO COMPLY WITH THE

NAIC GROUP SUPERVISION APPROACH, AS DETAILED IN THE NAIC FINANCIAL ANALYSIS HANDBOOK; AND

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

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

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

(e) IF THE LEAD STATE COMMISSIONER DETERMINES THAT AN INSURANCE HOLDING COMPANY SYSTEM NO LONGER MEETS ONE OR MORE OF THE REQUIREMENTS FOR AN EXEMPTION FROM FILING THE GROUP CAPITAL CALCULATION UNDER THIS SECTION, THE INSURANCE HOLDING COMPANY SYSTEM MUST FILE THE GROUP CAPITAL CALCULATION AT THE NEXT ANNUAL FILING DATE UNLESS GIVEN AN EXTENSION BY THE LEAD STATE COMMISSIONER BASED ON REASONABLE GROUNDS SHOWN.

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

(II) (A) THE NAIC LIQUIDITY STRESS TEST FRAMEWORK INCLUDES SCOPE CRITERIA APPLICABLE TO A SPECIFIC DATA YEAR. AT LEAST ANNUALLY, THE FINANCIAL STABILITY TASK FORCE OR ITS SUCCESSOR SHALL REVIEW THE SCOPE CRITERIA. ANY CHANGE TO THE NAIC LIQUIDITY STRESS TEST FRAMEWORK OR TO THE DATA YEAR FOR WHICH THE SCOPE CRITERIA ARE TO BE MEASURED TAKES EFFECT ON JANUARY 1 OF THE YEAR FOLLOWING THE CALENDAR YEAR WHEN SUCH CHANGES ARE ADOPTED. INSURERS MEETING AT LEAST ONE THRESHOLD OF THE SCOPE CRITERIA ARE CONSIDERED SCOPED INTO THE NAIC LIQUIDITY STRESS TEST FRAMEWORK FOR THE SPECIFIED DATA YEAR UNLESS THE LEAD STATE COMMISSIONER, IN CONSULTATION WITH THE NAIC FINANCIAL STABILITY TASK FORCE OR ITS SUCCESSOR, DETERMINES THE INSURER SHOULD NOT BE SCOPED INTO THE NAIC LIQUIDITY STRESS TEST FRAMEWORK FOR THAT DATA YEAR. SIMILARLY,

INSURERS THAT DO NOT TRIGGER AT LEAST ONE THRESHOLD OF THE SCOPE CRITERIA ARE CONSIDERED SCOPED OUT OF THE NAIC LIQUIDITY STRESS TEST FRAMEWORK FOR THE SPECIFIED DATA YEAR, UNLESS THE LEAD STATE COMMISSIONER, IN CONSULTATION WITH THE NAIC FINANCIAL STABILITY TASK FORCE OR ITS SUCCESSOR, DETERMINES THE INSURER SHOULD BE SCOPED INTO THE FRAMEWORK FOR THAT DATA YEAR.

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

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

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

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

(V) The books, accounts, and records of each party to all such transactions shall be so maintained as to clearly and accurately disclose the nature and details of the transactions, including such accounting information as is necessary to support the reasonableness of the charges or fees to the respective parties; ~~and~~

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

(B) IN DETERMINING WHETHER A DEPOSIT OR A BOND IS REQUIRED, THE COMMISSIONER SHALL CONSIDER WHETHER CONCERNS EXIST WITH RESPECT TO THE AFFILIATED PERSON'S ABILITY TO FULFILL A CONTRACT OR AGREEMENT IF THE INSURER WERE TO BE PUT INTO LIQUIDATION. ONCE THE INSURER IS DEEMED TO BE IN A HAZARDOUS FINANCIAL CONDITION OR A CONDITION THAT WOULD BE GROUNDS FOR SUPERVISION, CONSERVATION, OR A DELINQUENCY PROCEEDING, AND A DEPOSIT OR BOND IS NECESSARY, THE COMMISSIONER MAY DETERMINE THE AMOUNT OF THE

DEPOSIT OR BOND, NOT TO EXCEED THE VALUE OF A CONTRACT OR AGREEMENT IN ANY ONE YEAR, AND WHETHER SUCH DEPOSIT OR BOND SHOULD BE REQUIRED FOR A SINGLE CONTRACT, MULTIPLE CONTRACTS, OR A CONTRACT ONLY WITH A SPECIFIC PERSON.

(VIII) THE RECORDS AND DATA OF THE INSURER HELD BY AN AFFILIATE ARE AND REMAIN THE PROPERTY OF THE INSURER AND ARE SUBJECT TO CONTROL OF THE INSURER. THE AFFILIATE SHALL ENSURE THAT THE RECORDS AND DATA ARE IDENTIFIABLE AND ARE SEGREGATED OR READILY CAPABLE OF SEGREGATION, AT NO ADDITIONAL COST TO THE INSURER, FROM ALL OTHER PERSONS' RECORDS AND DATA. THIS INCLUDES ALL RECORDS AND DATA THAT ARE OTHERWISE THE PROPERTY OF THE INSURER, IN WHATEVER FORM MAINTAINED, INCLUDING CLAIMS AND CLAIM FILES, POLICYHOLDER LISTS, APPLICATION FILES, LITIGATION FILES, PREMIUM RECORDS, RATE BOOKS, UNDERWRITING MANUALS, PERSONNEL RECORDS, FINANCIAL RECORDS, OR SIMILAR RECORDS WITHIN THE POSSESSION, CUSTODY, OR CONTROL OF THE AFFILIATE. AT THE REQUEST OF THE INSURER, THE AFFILIATE SHALL PERMIT THE RECEIVER TO OBTAIN A COMPLETE SET OF ALL RECORDS OF ANY TYPE THAT PERTAIN TO THE INSURER'S BUSINESS, OBTAIN ACCESS TO THE OPERATING SYSTEMS ON WHICH THE DATA IS MAINTAINED, OBTAIN THE SOFTWARE THAT RUNS THE OPERATING SYSTEMS EITHER THROUGH ASSUMPTION OF LICENSING AGREEMENTS OR OTHERWISE, AND RESTRICT THE USE OF THE DATA BY THE AFFILIATE IF THE RECEIVER OR THE AFFILIATE IS NOT OPERATING THE INSURER'S BUSINESS. THE AFFILIATE SHALL PROVIDE A WAIVER OF ANY LANDLORD LIEN OR OTHER ENCUMBRANCE TO GIVE THE INSURER ACCESS TO ALL RECORDS AND DATA IN THE EVENT OF THE AFFILIATE'S DEFAULT UNDER A LEASE OR OTHER AGREEMENT.

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

(h) (I) AN AFFILIATE THAT IS PARTY TO AN AGREEMENT OR CONTRACT WITH A DOMESTIC INSURER THAT IS SUBJECT TO SUBSECTION (1)(b)(IV) OF THIS SECTION IS SUBJECT TO THE JURISDICTION OF ANY SUPERVISION, SEIZURE, CONSERVATORSHIP, OR RECEIVERSHIP PROCEEDINGS AGAINST THE INSURER AND TO THE AUTHORITY OF ANY SUPERVISOR, CONSERVATOR, REHABILITATOR, OR LIQUIDATOR FOR THE INSURER APPOINTED PURSUANT TO SUPERVISION AND RECEIVERSHIP ACTS FOR THE PURPOSE OF INTERPRETING, ENFORCING, AND OVERSEEING THE AFFILIATE'S OBLIGATIONS UNDER THE AGREEMENT OR CONTRACT TO PERFORM SERVICES FOR THE INSURER THAT:

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

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

(II) THE COMMISSIONER MAY REQUIRE THAT AN AGREEMENT OR CONTRACT

PURSUANT TO SUBSECTION (1)(b)(IV) OF THIS SECTION FOR THE PROVISION OF SERVICES DESCRIBED IN SUBSECTION (1)(h)(I) OF THIS SECTION SPECIFY THAT THE AFFILIATE CONSENTS TO THE JURISDICTION AS SET FORTH IN THIS SUBSECTION (1)(h).

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

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

10-3-808. Confidential treatment. (1) (a) Documents, materials, or other information in the possession or control of the division that are obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to section 10-3-806 and all information reported pursuant to section 10-3-803 (2)(l) and (2)(m), 10-3-804, or 10-3-805 ARE PROPRIETARY AND CONTAIN TRADE SECRETS AND are confidential by law and privileged; are not subject to the "Colorado Open Records Act", part 2 of article 72 of title 24; ~~C.R.S.~~; are not subject to subpoena; and are not subject to discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to 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 to which they pertain unless the commissioner, after giving the insurer and its affiliates who would be affected notice and opportunity to be heard, determines that the interest of policyholders, shareholders, or the public will be served by the publication, in which event the commissioner may publish all or any part OF THE DOCUMENTS, MATERIALS, OR OTHER INFORMATION in such manner as the commissioner deems appropriate.

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

(c) FOR THE PURPOSES OF THE INFORMATION REPORTED AND PROVIDED TO THE DIVISION PURSUANT TO SECTION 10-3-804 (12)(f), THE COMMISSIONER SHALL MAINTAIN THE CONFIDENTIALITY OF THE LIQUIDITY STRESS TEST RESULTS AND SUPPORTING DISCLOSURES AND ANY LIQUIDITY STRESS TEST INFORMATION RECEIVED FROM AN INSURANCE HOLDING COMPANY SUPERVISED BY THE FEDERAL RESERVE BOARD AND NON-UNITED STATES GROUP-WIDE SUPERVISORS.

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

(a) May share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subsection (1) of this section AND PROPRIETARY AND TRADE SECRET DOCUMENTS AND MATERIALS, with other state, federal, and international regulatory agencies, with the NAIC, ~~and its affiliates and subsidiaries~~ WITH ANY THIRD-PARTY

CONSULTANTS DESIGNATED BY THE COMMISSIONER, and with state, federal, and international law enforcement authorities, including members of ~~any~~ a supervisory college described in section 10-3-807, if the recipient agrees in writing to maintain the confidentiality and privileged status of the document, material, or other information OR PROPRIETARY AND TRADE SECRET DOCUMENT AND MATERIAL and has verified in writing the legal authority to maintain confidentiality;

(c) May receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information AND PROPRIETARY AND TRADE SECRET INFORMATION, from the NAIC and its affiliates and subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or information OR PROPRIETARY AND TRADE SECRET DOCUMENTS AND MATERIALS 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 OR PROPRIETARY AND TRADE SECRET DOCUMENT AND MATERIAL; and

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

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

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

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

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

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

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

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

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

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

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

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

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

(D) IN ANY OTHER WAY AS AN ADVERTISEMENT.

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

TO DEMONSTRATE TO THE COMMISSIONER WITH SUBSTANTIAL PROOF THE FALSITY OR INAPPROPRIATENESS OF SUCH ANNOUNCEMENT, ADVERTISEMENT, OR STATEMENT.

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

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

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

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

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

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

(IV) LONG-TERM CARE INSURANCE POLICIES; OR

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

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

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

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

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

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

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

(B) IS CERTIFIED IN THIS STATE; OR

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

(II) IS LICENSED:

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

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

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

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

SECTION 6. Act subject to petition - effective date. This act takes effect January 1, 2025; 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 the ninety-day period after final adjournment of the general assembly, 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 2024 and, in such case, will take effect January 1, 2025, or on the date of the official declaration of the vote thereon by the governor, whichever is later.

Approved: May 24, 2024