

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 24-0711.01 Kristen Forrestal x4217

HOUSE BILL 24-1321

HOUSE SPONSORSHIP

Brown and Taggart,

SENATE SPONSORSHIP

(None),

House Committees
Business Affairs & Labor

Senate Committees

A BILL FOR AN ACT

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

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 updates Colorado state laws concerning insurance company holding systems to align with the National Association of Insurance Commissioners' model act. The changes include updating:

- The registration requirements for the ultimate controlling person of each insurer by adding new filing requirements

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

- to be included with the division of insurance's (division) existing registration requirements;
- The standards for insurance holding company transactions subject to registration with the division;
 - Language concerning the confidential treatment of documents to include proprietary and trade secret documents and materials; and
 - The regulatory tools that the division may use for the regulation of insurance holding companies.
- The bill also makes technical amendments.

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

2 **SECTION 1.** In Colorado Revised Statutes, 10-3-801, **amend** (3);
3 and **add** (4.3), (4.7), (7.5), and (8.5) as follows:

4 **10-3-801. Definitions.** As used in this part 8, unless the context
5 otherwise requires:

6 (3) "Control", including the terms "controlling", "controlled by",
7 and "under common control with", means the possession, direct or
8 indirect, of the power to direct or cause the direction of the management
9 and policies of a person, whether through the ownership of voting
10 securities, by contract other than a commercial contract for goods or
11 nonmanagement services, or otherwise, unless the power is the result of
12 an official position with or corporate office held by the person. Control
13 is presumed to exist if any person, directly or indirectly, owns, controls,
14 holds with the power to vote, or holds proxies representing ten percent or
15 more of the voting securities of any other person. A person may rebut this
16 presumption by a showing made in the manner provided by ~~section~~
17 ~~10-3-804 (9) that control does not exist in fact. The commissioner may~~
18 ~~determine, after furnishing all persons in interest notice and opportunity~~
19 ~~to be heard and making specific findings of fact to support the~~
20 ~~determination, that control exists in fact, notwithstanding the absence of~~

1 ~~a presumption to that effect~~ SECTION 10-3-804 (11).

2 (4.3) "GROUP CAPITAL CALCULATION INSTRUCTIONS" MEANS THE
3 GROUP CAPITAL CALCULATION INSTRUCTIONS ADOPTED AND AMENDED BY
4 THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS.

5 (4.7) "HAZARDOUS FINANCIAL CONDITION" MEANS THAT, BASED
6 ON ITS PRESENT OR REASONABLY ANTICIPATED FINANCIAL CONDITION, A
7 RISK RETENTION GROUP, ALTHOUGH NOT YET FINANCIALLY IMPAIRED OR
8 INSOLVENT, IS UNLIKELY TO BE ABLE TO MEET OBLIGATIONS TO
9 POLICYHOLDERS WITH RESPECT TO KNOWN CLAIMS AND REASONABLY
10 ANTICIPATED CLAIMS OR TO PAY OTHER OBLIGATIONS IN THE NORMAL
11 COURSE OF BUSINESS.

12 (7.5) "NAIC LIQUIDITY STRESS TEST FRAMEWORK" OR
13 "FRAMEWORK" MEANS THE NAIC PUBLICATION THAT INCLUDES A HISTORY
14 OF THE NAIC'S DEVELOPMENT OF REGULATORY LIQUIDITY STRESS
15 TESTING, THE SCOPE CRITERIA APPLICABLE FOR A SPECIFIC DATA YEAR,
16 AND THE LIQUIDITY STRESS TEST INSTRUCTIONS AND REPORTING
17 TEMPLATES FOR A SPECIFIC DATA YEAR, AS ADOPTED BY THE NAIC, AND
18 AS AMENDED FROM TIME TO TIME BY THE NAIC, IN ACCORDANCE WITH
19 THE PROCEDURES ADOPTED BY THE NAIC.

20 (8.5) "SCOPE CRITERIA" MEANS THE DESIGNATED EXPOSURE BASES,
21 ALONG WITH MINIMUM MAGNITUDES OF EXPOSURE BASES FOR THE
22 SPECIFIED DATA YEAR, USED TO ESTABLISH A PRELIMINARY LIST OF
23 INSURERS CONSIDERED SCOPED INTO THE NAIC LIQUIDITY STRESS TEST
24 FRAMEWORK FOR THAT DATA YEAR.

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

27 **10-3-804. Registration of insurers.** (12) (a) The ultimate

1 controlling person of every insurer subject to registration shall also file
2 an annual enterprise risk report. The report must, to the best of the
3 ultimate controlling person's knowledge and belief, identify the material
4 risks within the insurance holding company system that could pose
5 enterprise risk to the insurer. The controlling person shall file the report
6 with the lead state commissioner of the insurance holding company
7 system as determined by the procedures within the financial analysis
8 handbook adopted by the NAIC.

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

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

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

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

14 (IV) AN INSURANCE HOLDING COMPANY SYSTEM:

15 (A) THAT PROVIDES INFORMATION TO THE LEAD STATE
16 COMMISSIONER THAT MEETS THE REQUIREMENTS FOR ACCREDITATION
17 UNDER THE NAIC FINANCIAL STANDARDS AND ACCREDITATION PROGRAM,
18 EITHER DIRECTLY OR INDIRECTLY THROUGH THE GROUP-WIDE SUPERVISOR,
19 WHO HAS DETERMINED SUCH INFORMATION IS SATISFACTORY TO ALLOW
20 THE LEAD STATE COMMISSIONER TO COMPLY WITH THE NAIC GROUP
21 SUPERVISION APPROACH, AS DETAILED IN THE NAIC FINANCIAL ANALYSIS
22 HANDBOOK; AND

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

1 JURISDICTION.

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

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

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

25 (f) (I) THE ULTIMATE CONTROLLING PERSON OF AN INSURER
26 SUBJECT TO REGISTRATION AND ALSO SCOPED INTO THE NAIC LIQUIDITY
27 STRESS TEST FRAMEWORK SHALL FILE THE RESULTS OF A SPECIFIC YEAR'S

1 LIQUIDITY STRESS TEST. THE FILING MUST BE MADE TO THE LEAD STATE
2 COMMISSIONER OF THE INSURANCE HOLDING COMPANY SYSTEM AS
3 DETERMINED BY THE PROCEDURES WITHIN THE FINANCIAL ANALYSIS
4 HANDBOOK ADOPTED BY THE NAIC.

5 (II) (A) THE NAIC LIQUIDITY STRESS TEST FRAMEWORK INCLUDES
6 SCOPE CRITERIA APPLICABLE TO A SPECIFIC DATA YEAR. AT LEAST
7 ANNUALLY, THE FINANCIAL STABILITY TASK FORCE OR ITS SUCCESSOR
8 SHALL REVIEW THE SCOPE CRITERIA. ANY CHANGE TO THE NAIC
9 LIQUIDITY STRESS TEST FRAMEWORK OR TO THE DATA YEAR FOR WHICH
10 THE SCOPE CRITERIA ARE TO BE MEASURED TAKES EFFECT ON JANUARY 1
11 OF THE YEAR FOLLOWING THE CALENDAR YEAR WHEN SUCH CHANGES ARE
12 ADOPTED. INSURERS MEETING AT LEAST ONE THRESHOLD OF THE SCOPE
13 CRITERIA ARE CONSIDERED SCOPED INTO THE NAIC LIQUIDITY STRESS
14 TEST FRAMEWORK FOR THE SPECIFIED DATA YEAR UNLESS THE LEAD STATE
15 COMMISSIONER, IN CONSULTATION WITH THE NAIC FINANCIAL STABILITY
16 TASK FORCE OR ITS SUCCESSOR, DETERMINES THE INSURER SHOULD NOT
17 BE SCOPED INTO THE NAIC LIQUIDITY STRESS TEST FRAMEWORK FOR THAT
18 DATA YEAR. SIMILARLY, INSURERS THAT DO NOT TRIGGER AT LEAST ONE
19 THRESHOLD OF THE SCOPE CRITERIA ARE CONSIDERED SCOPED OUT OF THE
20 NAIC LIQUIDITY STRESS TEST FRAMEWORK FOR THE SPECIFIED DATA
21 YEAR, UNLESS THE LEAD STATE COMMISSIONER, IN CONSULTATION WITH
22 THE NAIC FINANCIAL STABILITY TASK FORCE OR ITS SUCCESSOR,
23 DETERMINES THE INSURER SHOULD BE SCOPED INTO THE FRAMEWORK FOR
24 THAT DATA YEAR.

25 (B) AS PART OF THE DETERMINATION FOR AN INSURER, THE LEAD
26 STATE INSURANCE COMMISSIONER, IN CONSULTATION WITH THE FINANCIAL
27 STABILITY TASK FORCE OR ITS SUCCESSOR, SHALL ASSESS A REGULATOR'S

1 DESIRE TO AVOID HAVING INSURERS SCOPED IN AND OUT OF THE NAIC
2 LIQUIDITY STRESS TEST FRAMEWORK ON A FREQUENT BASIS.

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

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

13 **10-3-805. Standards and management of an insurer within an**
14 **insurance holding company system - rules. (1) Transactions within**
15 **an insurance holding company system. (a)** Transactions within an
16 insurance holding company system to which an insurer subject to
17 registration is a party are subject to the following standards:

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

23 (VII) (A) IF AN INSURER SUBJECT TO THIS ARTICLE 3 IS DEEMED BY
24 THE COMMISSIONER TO BE IN A HAZARDOUS FINANCIAL CONDITION OR A
25 CONDITION THAT WOULD BE GROUNDS FOR SUPERVISION, CONSERVATION,
26 OR A DELINQUENCY PROCEEDING, THEN THE COMMISSIONER MAY REQUIRE
27 THE INSURER TO SECURE AND MAINTAIN EITHER A DEPOSIT, HELD BY THE

1 COMMISSIONER, OR A BOND, AS DETERMINED BY THE INSURER AT THE
2 INSURER'S DISCRETION, FOR THE PROTECTION OF THE INSURER FOR THE
3 DURATION OF THE CONTRACT OR AGREEMENT, OR THE EXISTENCE OF THE
4 CONDITION FOR WHICH THE COMMISSIONER REQUIRED THE DEPOSIT OR THE
5 BOND.

6 (B) IN DETERMINING WHETHER A DEPOSIT OR A BOND IS REQUIRED,
7 THE COMMISSIONER SHALL CONSIDER WHETHER CONCERNS EXIST WITH
8 RESPECT TO THE AFFILIATED PERSON'S ABILITY TO FULFILL A CONTRACT OR
9 AGREEMENT IF THE INSURER WERE TO BE PUT INTO LIQUIDATION. ONCE
10 THE INSURER IS DEEMED TO BE IN A HAZARDOUS FINANCIAL CONDITION OR
11 A CONDITION THAT WOULD BE GROUNDS FOR SUPERVISION,
12 CONSERVATION, OR A DELINQUENCY PROCEEDING, AND A DEPOSIT OR
13 BOND IS NECESSARY, THE COMMISSIONER MAY DETERMINE THE AMOUNT
14 OF THE DEPOSIT OR BOND, NOT TO EXCEED THE VALUE OF A CONTRACT OR
15 AGREEMENT IN ANY ONE YEAR, AND WHETHER SUCH DEPOSIT OR BOND
16 SHOULD BE REQUIRED FOR A SINGLE CONTRACT, MULTIPLE CONTRACTS, OR
17 A CONTRACT ONLY WITH A SPECIFIC PERSON.

18 (VIII) THE RECORDS AND DATA OF THE INSURER HELD BY AN
19 AFFILIATE ARE AND REMAIN THE PROPERTY OF THE INSURER AND ARE
20 SUBJECT TO CONTROL OF THE INSURER. THE AFFILIATE SHALL ENSURE
21 THAT THE RECORDS AND DATA ARE IDENTIFIABLE AND ARE SEGREGATED
22 OR READILY CAPABLE OF SEGREGATION, AT NO ADDITIONAL COST TO THE
23 INSURER, FROM ALL OTHER PERSONS' RECORDS AND DATA. THIS INCLUDES
24 ALL RECORDS AND DATA THAT ARE OTHERWISE THE PROPERTY OF THE
25 INSURER, IN WHATEVER FORM MAINTAINED, INCLUDING CLAIMS AND
26 CLAIM FILES, POLICYHOLDER LISTS, APPLICATION FILES, LITIGATION FILES,
27 PREMIUM RECORDS, RATE BOOKS, UNDERWRITING MANUALS, PERSONNEL

1 RECORDS, FINANCIAL RECORDS, OR SIMILAR RECORDS WITHIN THE
2 POSSESSION, CUSTODY, OR CONTROL OF THE AFFILIATE. AT THE REQUEST
3 OF THE INSURER, THE AFFILIATE SHALL PERMIT THE RECEIVER TO OBTAIN
4 A COMPLETE SET OF ALL RECORDS OF ANY TYPE THAT PERTAIN TO THE
5 INSURER'S BUSINESS, OBTAIN ACCESS TO THE OPERATING SYSTEMS ON
6 WHICH THE DATA IS MAINTAINED, OBTAIN THE SOFTWARE THAT RUNS THE
7 OPERATING SYSTEMS EITHER THROUGH ASSUMPTION OF LICENSING
8 AGREEMENTS OR OTHERWISE, AND RESTRICT THE USE OF THE DATA BY THE
9 AFFILIATE IF THE RECEIVER OR THE AFFILIATE IS NOT OPERATING THE
10 INSURER'S BUSINESS. THE AFFILIATE SHALL PROVIDE A WAIVER OF ANY
11 LANDLORD LIEN OR OTHER ENCUMBRANCE TO GIVE THE INSURER ACCESS
12 TO ALL RECORDS AND DATA IN THE EVENT OF THE AFFILIATE'S DEFAULT
13 UNDER A LEASE OR OTHER AGREEMENT.

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

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

1 PERFORM SERVICES FOR THE INSURER THAT:

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

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

8 (II) THE COMMISSIONER MAY REQUIRE THAT AN AGREEMENT OR
9 CONTRACT PURSUANT TO SUBSECTION (1)(b)(IV) OF THIS SECTION FOR THE
10 PROVISION OF SERVICES DESCRIBED IN SUBSECTION (1)(h)(I) OF THIS
11 SECTION SPECIFY THAT THE AFFILIATE CONSENTS TO THE JURISDICTION AS
12 SET FORTH IN THIS SUBSECTION (1)(h).

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

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

17 **10-3-808. Confidential treatment.** (1) (a) Documents, materials,
18 or other information in the possession or control of the division that are
19 obtained by or disclosed to the commissioner or any other person in the
20 course of an examination or investigation made pursuant to section
21 10-3-806 and all information reported pursuant to section 10-3-803 (2)(l)
22 and (2)(m), 10-3-804, or 10-3-805 ARE PROPRIETARY AND CONTAIN
23 TRADE SECRETS AND are confidential by law and privileged; are not
24 subject to the "Colorado Open Records Act", part 2 of article 72 of title
25 24; ~~C.R.S.~~, are not subject to subpoena; and are not subject to discovery
26 or admissible in evidence in any private civil action. However, the
27 commissioner is authorized to use the documents, materials, or other

1 information in the furtherance of any regulatory or legal action brought
2 as a part of the commissioner's official duties. The commissioner shall not
3 otherwise make the documents, materials, or other information public
4 without the prior written consent of the insurer to which they pertain
5 unless the commissioner, after giving the insurer and its affiliates who
6 would be affected notice and opportunity to be heard, determines that the
7 interest of policyholders, shareholders, or the public will be served by the
8 publication, in which event the commissioner may publish all or any part
9 OF THE DOCUMENTS, MATERIALS, OR OTHER INFORMATION in such manner
10 as the commissioner deems appropriate.

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

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

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

27 (a) May share documents, materials, or other information,

1 including the confidential and privileged documents, materials, or
2 information subject to subsection (1) of this section AND PROPRIETARY
3 AND TRADE SECRET DOCUMENTS AND MATERIALS, with other state,
4 federal, and international regulatory agencies, with the NAIC, ~~and its~~
5 ~~affiliates and subsidiaries~~ WITH ANY THIRD-PARTY CONSULTANTS
6 DESIGNATED BY THE COMMISSIONER, and with state, federal, and
7 international law enforcement authorities, including members of any A
8 supervisory college described in section 10-3-807, if the recipient agrees
9 in writing to maintain the confidentiality and privileged status of the
10 document, material, or other information OR PROPRIETARY AND TRADE
11 SECRET DOCUMENT AND MATERIAL and has verified in writing the legal
12 authority to maintain confidentiality;

13 (c) May receive documents, materials, or information, including
14 otherwise confidential and privileged documents, materials, or
15 information AND PROPRIETARY AND TRADE SECRET INFORMATION, from
16 the NAIC and its affiliates and subsidiaries and from regulatory and law
17 enforcement officials of other foreign or domestic jurisdictions, and shall
18 maintain as confidential or privileged any document, material, or
19 information OR PROPRIETARY AND TRADE SECRET DOCUMENTS AND
20 MATERIALS received with notice or the understanding that it is
21 confidential or privileged under the laws of the jurisdiction that is the
22 source of the document, material, or information OR PROPRIETARY AND
23 TRADE SECRET DOCUMENT AND MATERIAL; and

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

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

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

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

23 (III) Require prompt notice to be given to an insurer whose
24 confidential information in the possession of the NAIC pursuant to this
25 part 8 is subject to a request or subpoena to the NAIC for disclosure or
26 production; ~~and~~

27 (IV) Require the NAIC ~~and its affiliates and subsidiaries~~ OR A

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

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

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

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

27 (b) (I) EXCEPT AS PROVIDED IN SUBSECTION (7)(b)(II) OF THIS

1 SECTION, ANY INSURER, BROKER, OR OTHER PERSON ENGAGED IN ANY
2 MANNER IN THE INSURANCE BUSINESS SHALL NOT ADVERTISE, ANNOUNCE,
3 OR STATE A REPRESENTATION REGARDING THE GROUP CAPITAL
4 CALCULATION, GROUP CAPITAL RATIO, LIQUIDITY STRESS TEST RESULTS,
5 OR SUPPORTING DISCLOSURES FOR THE LIQUIDITY STRESS TEST OF ANY
6 INSURER OR ANY INSURER GROUP, OR OF ANY COMPONENT DERIVED IN THE
7 CALCULATION BY DIRECTLY OR INDIRECTLY MAKING, PUBLISHING,
8 DISSEMINATING, CIRCULATING, OR PLACING THE REPRESENTATION BEFORE
9 THE PUBLIC:

- 10 (A) IN A NEWSPAPER, MAGAZINE, OR OTHER PUBLICATION; OR
- 11 (B) IN THE FORM OF A NOTICE, CIRCULAR, PAMPHLET, LETTER, OR
12 POSTER; OR
- 13 (C) OVER ANY RADIO OR TELEVISION STATION OR ANY ELECTRONIC
14 MEANS OF COMMUNICATION AVAILABLE TO THE PUBLIC; OR
- 15 (D) IN ANY OTHER WAY AS AN ADVERTISEMENT.

16 (II) AN INSURER MAY PUBLISH AN ANNOUNCEMENT,
17 ADVERTISEMENT, OR STATEMENT DESCRIBED IN SUBSECTION (7)(b)(I) OF
18 THIS SECTION IN A WRITTEN PUBLICATION IF THE SOLE PURPOSE OF THE
19 ANNOUNCEMENT IS TO REBUT THE MATERIALLY FALSE STATEMENT WHEN
20 THE ANNOUNCEMENT, ADVERTISEMENT, OR STATEMENT WAS PUBLISHED
21 IN A WRITTEN PUBLICATION AND THE INSURER IS ABLE TO DEMONSTRATE
22 TO THE COMMISSIONER WITH SUBSTANTIAL PROOF THE FALSITY OR
23 INAPPROPRIATENESS OF SUCH ANNOUNCEMENT, ADVERTISEMENT, OR
24 STATEMENT.

25 **SECTION 5.** In Colorado Revised Statutes, 10-3-702, **add**
26 (6.5)(i) as follows:

27 **10-3-702. Credit allowed to a domestic ceding insurer - rules**

1 - **definitions.** (6.5) (i) THIS SUBSECTION (6.5) DOES NOT APPLY TO
2 CESSIONS TO AN ASSUMING INSURER THAT:

3 (I) MEETS THE CONDITIONS IN SUBSECTIONS (6.5)(a) TO (6.5)(g)
4 OF THIS SECTION;

5 (II) IS CERTIFIED IN COLORADO; OR

6 (III) MAINTAINS AT LEAST TWO HUNDRED FIFTY MILLION DOLLARS
7 IN CAPITAL AND SURPLUS WHEN DETERMINED IN ACCORDANCE WITH THE
8 NAIC ACCOUNTING PRACTICES AND PROCEDURES MANUAL, INCLUDING
9 ALL AMENDMENTS TO THE MANUAL ADOPTED BY THE NAIC, EXCLUDING
10 THE IMPACT OF ANY PERMITTED OR PRESCRIBED PRACTICES, AND:

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

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

14 **SECTION 6. Act subject to petition - effective date.** This act
15 takes effect January 1, 2025; except that, if a referendum petition is filed
16 pursuant to section 1 (3) of article V of the state constitution against this
17 act or an item, section, or part of this act within the ninety-day period
18 after final adjournment of the general assembly, then the act, item,
19 section, or part will not take effect unless approved by the people at the
20 general election to be held in November 2024 and, in such case, will take
21 effect January 1, 2025, or on the date of the official declaration of the
22 vote thereon by the governor, whichever is later.