

STATE OF NEW YORK

9006

IN SENATE

May 3, 2022

Introduced by Sen. BRESLIN -- (at request of the Department of Financial Services) -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to group capital calculations, liquidity stress tests, and confidentiality

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraphs 1 and 2 of subsection (a) of section 110 of the
2 insurance law, as amended by chapter 238 of the laws of 2013, are
3 amended to read as follows:

4 (1) may share documents, materials or other information, including
5 confidential [~~and~~], privileged, and trade secret documents, materials or
6 information with other local, state, federal, and international regula-
7 tory agencies, with the National Association of Insurance Commissioners,
8 its affiliates or subsidiaries, [~~and~~] with any third-party consultant
9 designated by the superintendent, with local, state, federal, and inter-
10 national law enforcement authorities, including members of any supervi-
11 sory college described in section three hundred two of this chapter, and
12 with any other entity designated by the superintendent in a regulation,
13 provided that the recipient has the authority and agrees to maintain the
14 confidentiality and privileged status of the document, material or other
15 information; provided, however, that this paragraph shall not be
16 construed as limiting access to records pursuant to article six of the
17 public officers law;

18 (2) may receive documents, materials or information, including other-
19 wise confidential [~~and~~], privileged, and trade secret documents, materi-
20 als or information, from the National Association of Insurance Commis-
21 sioners, its affiliates or subsidiaries [~~and~~], from regulatory and law
22 enforcement officials of other foreign or domestic jurisdictions,
23 including members of any supervisory college described in section three
24 hundred two of this chapter, and from any other entity designated by the
25 superintendent in a regulation, and shall maintain as confidential or
26 privileged any document, material or information received with notice or
27 the understanding that it is confidential or privileged under the laws

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 of the jurisdiction that is the source of the document, material or
2 information; and

3 § 2. Section 1503 of the insurance law is amended by adding a new
4 subsection (c) to read as follows:

5 (c) (1) A holding company that directly or indirectly controls an
6 insurer shall file with the superintendent an annual group capital
7 calculation and the results of an annual liquidity stress test in a form
8 prescribed by the superintendent, provided, however, that the super-
9 intendent may exempt a holding company from filing an annual group capi-
10 tal calculation or the results of an annual liquidity stress test, or
11 permit a holding company to submit a limited annual group capital calcu-
12 lation, in accordance with criteria set forth in a regulation.

13 (2) No insurer, insurance producer, or other person shall make or
14 issue in this state any advertisement, sign, pamphlet, circular, card,
15 or other public announcement purporting to make known the group capital
16 calculation, group capital ratio, liquidity stress test results or
17 supporting disclosures for such test, or any component derived in the
18 calculation thereof, of any insurer or holding company system, provided,
19 however, that an insurer may rebut any materially false statement with
20 respect to the foregoing with the superintendent's prior approval.

21 § 3. Subsection (c) of section 1504 of the insurance law, as amended
22 by chapter 238 of the laws of 2013, is amended to read as follows:

23 (c) The [~~superintendent shall keep the~~] contents of each report made
24 pursuant to this article and any information obtained in connection
25 therewith shall be confidential and proprietary and shall not be subject
26 to subpoena or discovery or admissible in evidence in any private civil
27 action, and the superintendent shall not make the same public without
28 the prior written consent of the controlled insurer to which it pertains
29 unless the superintendent, after notice and an opportunity to be heard,
30 shall determine that the interests of policyholders, shareholders or the
31 public will be served by the publication thereof. In any action or
32 proceeding by the superintendent against the person examined or any
33 other person within the same holding company system a report of such
34 examination published by the superintendent shall be admissible as
35 evidence of the facts stated therein.

36 § 4. Subsection (f) of section 1506 of the insurance law, as added by
37 chapter 238 of the laws of 2013, is amended to read as follows:

38 (f) Any holding company seeking to divest its controlling interest in
39 a domestic insurer, in any manner, shall file with the superintendent,
40 with a copy to the insurer, notice of its proposed divestiture at least
41 thirty days prior to the cessation of control, provided, however that
42 this subsection shall not apply if notice is provided as required by
43 subsection (a) of this section.

44 § 5. The insurance law is amended by adding two new sections 1511 and
45 1512 to read as follows:

46 § 1511. Expenses for group-wide supervision. A controlled insurer
47 shall be liable for and shall pay the reasonable expenses of the super-
48 intendent's participation in the administration of group-wide super-
49 vision of internationally active insurance groups, including the engage-
50 ment of attorneys, actuaries, and any other professionals and all
51 reasonable travel expenses.

52 § 1512. Regulations. The superintendent may promulgate regulations:

53 (a) requiring a controlled insurer deemed by the superintendent to be
54 in a hazardous financial condition or a condition that would be grounds
55 for a proceeding under article seventy-four of this chapter, to secure

1 and maintain a deposit or bond for certain transactions within the hold-
2 ing company system;

3 (b) requiring a holding company or controlled person that is party to
4 an agreement or contract with a controlled insurer to be subject to the
5 jurisdiction of any proceeding against the controlled insurer under
6 article seventy-four of this chapter and to the superintendent, as
7 receiver, for the purpose of interpreting, enforcing, and overseeing the
8 holding company's or controlled person's obligations under the agreement
9 or contract to perform services for the controlled insurer; and

10 (c) governing records and data of, and premiums and other funds
11 belonging to a controlled insurer that are held by a holding company or
12 controlled person.

13 § 6. Subsection (d) of section 1603 of the insurance law, as added by
14 chapter 238 of the laws of 2013, is amended to read as follows:

15 (d) Any domestic insurer seeking to divest its controlling interest in
16 another domestic insurer, in any manner, shall file with the superinten-
17 dent, with a copy to the insurer, notice of its proposed divestiture at
18 least thirty days prior to the cessation of control, provided, however
19 that this subsection shall not apply if notice is provided as required
20 by subsection (a) of this section.

21 § 7. Section 1604 of the insurance law is amended by adding a new
22 subsection (c) to read as follows:

23 (c) (1) An authorized domestic insurer, other than a domestic insurer
24 required to register as a controlled insurer pursuant to section one
25 thousand five hundred three of this chapter, shall file with the super-
26 intendent an annual group capital calculation in a form prescribed by
27 the superintendent, provided, however, that the superintendent may
28 exempt an authorized domestic insurer from filing an annual group capi-
29 tal calculation or permit an authorized domestic insurer to submit a
30 limited annual group capital calculation, in accordance with criteria
31 set forth in a regulation. An authorized domestic insurer also shall
32 file the results of an annual liquidity stress test in a form prescribed
33 by the superintendent if required pursuant to a regulation.

34 (2) No insurer, insurance producer, or other person shall make or
35 issue in this state any advertisement, sign, pamphlet, circular, card,
36 or other public announcement purporting to make known the group capital
37 calculation, group capital ratio, liquidity stress test results or
38 supporting disclosures for such test, or any component derived in the
39 calculation thereof, of any authorized domestic insurer or subsidiary
40 thereof, provided, however, that an authorized domestic insurer may
41 rebut any materially false statement with respect to the foregoing with
42 the superintendent's prior approval.

43 § 8. Section 1612 of the insurance law is amended to read as follows:

44 § 1612. Regulations. (a) In addition to the powers expressly given by
45 this article, the superintendent shall have the power to promulgate,
46 from time to time, such regulations, not inconsistent with this chapter,
47 as may be appropriate to carry out this article and, insofar as applica-
48 ble to this article, other provisions of this chapter.

49 (b) The superintendent also may promulgate regulations:

50 (1) requiring an authorized domestic insurer deemed by the superinten-
51 dent to be in a hazardous financial condition or a condition that would
52 be grounds for a proceeding under article seventy-four of this chapter,
53 to secure and maintain a deposit or bond for certain transactions with a
54 subsidiary;

55 (2) requiring a subsidiary that is party to an agreement or contract
56 with an authorized domestic insurer to be subject to the jurisdiction of

1 any proceeding against the domestic insurer under article seventy-four
2 of this chapter and to the superintendent, as receiver, for the purpose
3 of interpreting, enforcing, and overseeing the subsidiary's obligations
4 under the agreement or contract to perform services for the domestic
5 insurer; and

6 (3) governing records and data of, and premiums and other funds
7 belonging to, a domestic insurer that are held by a subsidiary.

8 § 9. The insurance law is amended by adding two new sections 1613 and
9 1614 to read as follows:

10 § 1613. Expenses for group-wide supervision. An authorized domestic
11 insurer shall be liable for and shall pay the reasonable expenses of the
12 superintendent's participation in the administration of group-wide
13 supervision of internationally active insurance groups, including the
14 engagement of attorneys, actuaries, and any other professionals and all
15 reasonable travel expenses.

16 § 1614. Confidentiality of reports and filings. The contents of each
17 report and filing submitted pursuant to this article and information
18 pertaining thereto shall be kept confidential, shall not be subject to
19 subpoena or discovery, shall not be admissible in evidence in any
20 private civil action, and shall not be made public unless, after notice
21 and opportunity to be heard, the superintendent determines that the
22 interests of policyholders, subscribers, stockholders or the public will
23 be served by the publication thereof.

24 § 10. Section 1709 of the insurance law, as amended by chapter 381 of
25 the laws of 1986, is amended to read as follows:

26 § 1709. Confidentiality of [~~information~~] reports and filings. The
27 contents of each [~~information~~] report [~~filed hereunder~~] and filing
28 submitted pursuant to this article and information pertaining thereto
29 shall be kept confidential, shall not be subject to subpoena or discov-
30 ery, shall not be admissible in evidence in any private civil action,
31 and shall not be made public unless, after notice and opportunity to be
32 heard, the superintendent determines that the interests of policyhold-
33 ers, subscribers, stockholders or the public will be served by the
34 publication thereof. The provisions of this section shall not be appli-
35 cable to any [~~information~~] report [~~filed hereunder~~] or filing submitted
36 pursuant to this article and any information pertaining thereto, if the
37 parent corporation is a corporation subject to article forty-three of
38 this chapter.

39 § 11. Subsection (a) of section 1710 of the insurance law, as added by
40 chapter 238 of the laws of 2013, is amended to read as follows:

41 (a) Any parent corporation seeking to divest its controlling interest
42 in a domestic insurer, in any manner, shall file with the superinten-
43 dent, with a copy to the insurer, notice of its proposed divestiture at
44 least thirty days prior to the cessation of control, provided, however
45 that this subsection shall not apply if notice is provided as required
46 by subsection (b) of section one thousand seven hundred one of this
47 article.

48 § 12. Section 1716 of the insurance law is amended to read as follows:

49 § 1716. Regulations. (a) In addition to the powers expressly given by
50 this article, the superintendent shall have the power to promulgate,
51 from time to time, such regulations, not inconsistent with the
52 provisions of this chapter, as may be appropriate to carry out the
53 provisions of this article and, insofar as applicable to this article,
54 other provisions of this chapter.

55 (b) The superintendent also may promulgate regulations:

1 (1) requiring a parent corporation deemed by the superintendent to be
2 in a hazardous financial condition or a condition that would be grounds
3 for a proceeding under article seventy-four of this chapter, to secure
4 and maintain a deposit or bond for certain transactions with a subsid-
5 ary;

6 (2) requiring a subsidiary that is party to an agreement or contract
7 with a parent corporation to be subject to the jurisdiction of any
8 proceeding against the parent corporation under article seventy-four of
9 this chapter and to the superintendent, as receiver, for the purpose of
10 interpreting, enforcing, and overseeing the subsidiary's obligations
11 under the agreement or contract to perform services for the parent
12 corporation; and

13 (3) governing records and data of, and premiums and other funds
14 belonging to, a parent corporation that are held by a subsidiary.

15 § 13. Section 1717 of the insurance law is amended by adding a new
16 subsection (c) to read as follows:

17 (c) (1) A parent corporation, other than a parent corporation required
18 to register as a controlled insurer pursuant to section one thousand
19 five hundred three of this chapter, shall file with the superintendent
20 an annual group capital calculation and the results of an annual liquid-
21 ity stress test in a form prescribed by the superintendent, provided,
22 however, that the superintendent may exempt a parent corporation from
23 filing an annual group capital calculation or the results of an annual
24 liquidity stress test, or permit a parent corporation to submit a limit-
25 ed annual group capital calculation, in accordance with criteria set
26 forth in a regulation.

27 (2) No insurer, insurance producer, or other person shall make or
28 issue in this state any advertisement, sign, pamphlet, circular, card,
29 or other public announcement purporting to make known the group capital
30 calculation, group capital ratio, liquidity stress test results or
31 supporting disclosures for such test, or any component derived in the
32 calculation thereof, of any parent corporation or subsidiary thereof,
33 provided, however, that a parent corporation may rebut any materially
34 false statement with respect to the foregoing with the superintendent's
35 prior approval.

36 § 14. The insurance law is amended by adding a new section 1718 to
37 read as follows:

38 § 1718. Expenses for group-wide supervision. A parent corporation
39 shall be liable for and shall pay the reasonable expenses of the super-
40 intendent's participation in the administration of group-wide super-
41 vision of internationally active insurance groups, including the engage-
42 ment of attorneys, actuaries, and any other professionals and all
43 reasonable travel expenses.

44 § 15. This act shall take effect immediately.