

# 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 iary;

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.