

STATE OF NEW YORK

7095

2023-2024 Regular Sessions

IN SENATE

May 18, 2023

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) and subsection (b) of
2 section 110 of the insurance law, paragraphs 1 and 2 of subsection (a)
3 as amended by chapter 238 of the laws of 2013 and subsection (b) as
4 added by chapter 687 of the laws of 2003, are amended to read as
5 follows:

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

21 (2) may receive documents, materials or information, including other-
22 wise confidential [~~and~~], privileged, and trade secret documents, materi-
23 als or information, from the National Association of Insurance Commis-
24 sioners, its affiliates or subsidiaries [~~and~~], from regulatory and law

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

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1 enforcement officials of other foreign or domestic jurisdictions,
2 including members of any supervisory college described in section three
3 hundred two of this chapter, and from any other entity designated by the
4 superintendent in a regulation, and shall maintain as confidential or
5 privileged any document, material or information received with notice or
6 the understanding that it is confidential or privileged under the laws
7 of the jurisdiction that is the source of the document, material or
8 information; and

9 (b) (1) No waiver of any applicable privilege or claim of confiden-
10 tiality in the documents, materials, or information shall occur as a
11 result of disclosure to the superintendent under this section or as a
12 result of sharing as authorized in this section.

13 (2) The sharing of documents, materials, or information by the super-
14 intendent pursuant to this section shall not constitute a delegation of
15 regulatory authority or rulemaking, and the superintendent is solely
16 responsible for the administration, execution, and enforcement of the
17 provisions of this section.

18 (3) Documents, materials, or other information in the possession or
19 control of the National Association of Insurance Commissioners or third-
20 party consultants pursuant to this section shall be confidential by law
21 and privileged, shall not be subject to article six of the public offi-
22 cers law, shall not be subject to subpoena, and shall not be subject to
23 discovery or admissible in evidence in any private civil action.

24 § 2. Subsection (a) of section 1501 of the insurance law is amended by
25 adding four new paragraphs 8, 9, 10 and 11 to read as follows:

26 (8) "Group capital calculation instructions" means the group capital
27 calculation instructions as adopted by the: (A) NAIC and as amended by
28 the NAIC from time to time in accordance with the procedures adopted by
29 the NAIC; and (B) superintendent pursuant to a regulation.

30 (9) "NAIC" means the National Association of Insurance Commissioners.

31 (10) "NAIC liquidity stress test framework" means an NAIC publication
32 that includes a history of the NAIC's development of regulatory liquidi-
33 ty stress testing, the scope criteria applicable for a specific data
34 year, and the liquidity stress test instructions and reporting templates
35 for a specific data year, such scope criteria, instructions and report-
36 ing template being as adopted by the: (A) NAIC and as amended by the
37 NAIC from time to time in accordance with the procedures adopted by the
38 NAIC; and (B) superintendent pursuant to a regulation.

39 (11) "Scope criteria" means the designated exposure bases along with
40 minimum magnitudes thereof for the specified data year, used to estab-
41 lish a preliminary list of insurers considered scoped into the NAIC
42 liquidity stress test framework for that data year.

43 § 3. Section 1503 of the insurance law is amended by adding three new
44 subsections (c), (d) and (e) to read as follows:

45 (c) (1) An ultimate holding company shall file with the superintendent
46 an annual group capital calculation by April thirtieth of each year when
47 this state is the lead state of the holding company system as determined
48 in accordance with the procedures within the financial analysis handbook
49 adopted by the NAIC, as amended from time to time. When the lead state
50 is not this state, an ultimate holding company shall file with the
51 superintendent the annual group capital calculation if the ultimate
52 holding company has not filed the annual group capital calculation with
53 its lead state because the lead state has not enacted an annual group
54 capital calculation filing requirement or the ultimate holding company
55 has filed the annual group capital calculation with the lead state but
56 the lead state is not willing or able to share the annual group capital

1 calculation with the superintendent. The ultimate holding company shall
2 complete the annual group capital calculation in accordance with the
3 group capital calculation instructions, which may permit the superinten-
4 dent to allow a holding company that is not the ultimate holding company
5 to file the annual group capital calculation. When this state is the
6 lead state, an ultimate holding company shall be exempt from filing an
7 annual group capital calculation if it is part of a holding company
8 system that:

9 (A) has only one insurer within its system that only writes business
10 and is only licensed in its domestic state and assumes no business from
11 any other insurer;

12 (B) is required to perform a group capital calculation specified by
13 the United States Federal Reserve Board, except that the holding company
14 shall not be exempt if the superintendent requests the group capital
15 calculation from the United States Federal Reserve Board under the terms
16 of information sharing agreements in effect and the Federal Reserve
17 Board cannot share the calculation with the superintendent;

18 (C) has a non-United States group-wide supervisor that is located
19 within a reciprocal jurisdiction, as described in part one hundred twen-
20 ty-five of title eleven of the official compilation of codes, rules and
21 regulations of this state, that recognizes the United States state regu-
22 latory approach to group supervision and group capital; or

23 (D)(i) provides information to the superintendent, either directly or
24 indirectly through the group-wide supervisor, who has determined such
25 information is satisfactory to allow the superintendent to comply with
26 the NAIC group supervision approach, as detailed in the NAIC financial
27 analysis handbook; and

28 (ii) has a non-United States group-wide supervisor that is not in a
29 reciprocal jurisdiction that recognizes and accepts, as specified by the
30 superintendent in a regulation, the group capital calculation as the
31 world-wide group capital assessment for United States holding company
32 systems that operate in that jurisdiction.

33 (2) Notwithstanding subparagraphs (C) and (D) of paragraph one of this
34 subsection, when this state is the lead state, the superintendent shall
35 require the group capital calculation for United States operations of
36 any non-United States-based holding company system where, after any
37 necessary consultation with other supervisors or officials, it is deemed
38 appropriate by the superintendent for prudential oversight and solvency
39 monitoring purposes or for ensuring the competitiveness of the insurance
40 marketplace.

41 (3) Notwithstanding the exemptions from filing the group capital
42 calculation set forth in paragraph one of this subsection, when this
43 state is the lead state, the superintendent has the discretion to exempt
44 a holding company from filing an annual group capital calculation or
45 accept a limited group capital calculation filing or report in accord-
46 ance with criteria as specified by the superintendent in a regulation.

47 (4) When this state is the lead state, if the superintendent deter-
48 mines that a holding company no longer meets one or more of the require-
49 ments for an exemption from filing the group capital calculation under
50 this subsection, the holding company shall file the group capital calcu-
51 lation at the next annual filing date unless given an extension by the
52 superintendent based on reasonable grounds shown.

53 (d)(1) An ultimate holding company that directly or indirectly
54 controls an insurer subject to registration and that is scoped into the
55 NAIC liquidity stress test framework shall file the results of a specif-
56 ic year's annual liquidity stress test with the superintendent when this

1 state is the lead state of the holding company system as determined by
2 the procedures within the financial analysis handbook adopted by the
3 NAIC and as amended from time to time. When the lead state is not this
4 state, an ultimate holding company shall file with the superintendent
5 the results of a specific year's liquidity stress test if the ultimate
6 holding company has not filed the results with the lead state because
7 the lead state has not enacted a liquidity stress test filing require-
8 ment or the ultimate holding company has filed the results with the lead
9 state but the lead state is not willing or able to share the results
10 with the superintendent. The performance of, and filing of the results
11 from, a specific year's liquidity stress test shall comply with the NAIC
12 liquidity stress test framework.

13 (2) Any change to the NAIC liquidity stress test framework or to the
14 data year for which the scope criteria are to be measured shall be
15 effective on January first of the year following the calendar year when
16 such changes are adopted. When this state is the lead state, an insurer
17 meeting at least one threshold of the scope criteria shall be considered
18 scoped into the NAIC liquidity stress test framework for the specified
19 data year unless the superintendent, in consultation with the NAIC
20 financial stability task force, or its successor, determines the insurer
21 shall not be scoped into the NAIC liquidity stress test framework for
22 that data year. When this state is the lead state, an insurer that does
23 not trigger at least one threshold of the scope criteria shall be
24 considered scoped out of the NAIC liquidity stress test framework for
25 the specified data year, unless the superintendent, in consultation with
26 the NAIC financial stability task force, or its successor, determines
27 the insurer shall be scoped into the NAIC liquidity stress test frame-
28 work for that data year. The superintendent, in consultation with the
29 NAIC financial stability task force, or its successor, shall assess the
30 concern of wishing to avoid having insurers scoped in and out of the
31 NAIC liquidity stress test framework on a frequent basis as part of the
32 determination for an insurer.

33 (e) No insurer, insurance producer, or other person shall make,
34 publish, disseminate, circulate, issue, or place before the public, or
35 cause directly or indirectly to be made, published, disseminated, circu-
36 lated, issued, or placed before the public, in this state, in any news-
37 paper, magazine, or other publication, or in the form of a notice,
38 circular, pamphlet, letter, or poster, or over any radio or television
39 station or any electronic means of communication available to the
40 public, or in any other way as an advertisement, announcement, or state-
41 ment containing a representation or statement with regard to the group
42 capital calculation, group capital ratio, liquidity stress test results,
43 or supporting disclosures for such test, or any component derived in the
44 calculation thereof, of any insurer or holding company system, provided,
45 however, that an insurer may publish, with the superintendent's prior
46 approval, an announcement in a written publication to rebut any mate-
47 rially false statement with respect to the foregoing if the insurer is
48 able to demonstrate to the superintendent with substantial proof the
49 falsity of such statement or inappropriateness, as the case may be, and
50 if the sole purpose of the announcement is to rebut the materially false
51 statement.

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

54 (c) (1) The [superintendent shall keep the] contents of each report
55 and filing made pursuant to this article and any information obtained in
56 connection therewith shall be confidential and proprietary and shall not

1 be subject to subpoena or discovery or admissible in evidence in any
2 private civil action, and the superintendent shall not make the same
3 public without the prior written consent of the controlled insurer to
4 which it pertains unless the superintendent, after notice and an oppor-
5 tunity to be heard, shall determine that the interests of policyholders,
6 shareholders or the public will be served by the publication thereof. In
7 any action or proceeding by the superintendent against the person exam-
8 ined or any other person within the same holding company system a report
9 of such examination published by the superintendent shall be admissible
10 as evidence of the facts stated therein.

11 (2) Neither the superintendent nor any person who received a report or
12 filing made pursuant to this article and any information obtained in
13 connection therewith, through examination or otherwise, while acting
14 under the authority of the superintendent or with whom such report,
15 filing, or information are shared pursuant to this chapter, shall be
16 permitted or required to testify in any private civil action concerning
17 the report, filing, or information.

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

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

26 § 6. The insurance law is amended by adding a new section 1511 to read
27 as follows:

28 § 1511. Expenses for group-wide supervision. A controlled insurer
29 shall be liable for and shall pay the reasonable expenses of the super-
30 intendent's participation in the administration of group-wide super-
31 vision of internationally active insurance groups, including the engage-
32 ment of attorneys, actuaries, and any other professionals and all
33 reasonable travel expenses.

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

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

42 § 8. Section 1604 of the insurance law is amended by adding four new
43 subsections (c), (d), (e) and (f) to read as follows:

44 (c) (1) An authorized domestic insurer, other than a domestic insurer
45 required to register as a controlled insurer pursuant to section one
46 thousand five hundred three of this chapter, shall file with the super-
47 intendent an annual group capital calculation by April thirtieth of each
48 year when this state is the lead state as determined in accordance with
49 the procedures within the financial analysis handbook adopted by the
50 NAIC, as amended from time to time. When the lead state is not this
51 state, an authorized domestic insurer shall file with the superintendent
52 the annual group capital calculation if the authorized domestic insurer
53 has not filed the annual group capital calculation with its lead state
54 because the lead state has not enacted an annual group capital calcu-
55 lation filing requirement or the authorized domestic insurer has filed
56 the annual group capital calculation with the lead state but the lead

1 state is not willing or able to share the annual group capital calcu-
2 lation with the superintendent. The authorized domestic insurer shall
3 complete the annual group capital calculation in accordance with the
4 group capital calculation instructions, which may permit the superinten-
5 dent to allow a subsidiary to file the annual group capital calculation.
6 When this state is the lead state, an authorized domestic insurer shall
7 be exempt from filing an annual group capital calculation if it:

8 (A) has only one insurer subsidiary that only writes business and is
9 only licensed in its domestic state and assumes no business from any
10 other insurer;

11 (B) is required to perform a group capital calculation specified by
12 the United States Federal Reserve Board, except that the authorized
13 domestic insurer shall not be exempt if the superintendent requests the
14 group capital calculation from the United States Federal Reserve Board
15 under the terms of information sharing agreements in effect and the
16 Federal Reserve Board cannot share the calculation with the superinten-
17 dent;

18 (C) has a non-United States group-wide supervisor that is located
19 within a reciprocal jurisdiction, as described in part one hundred twen-
20 ty-five of title eleven of the official compilation of codes, rules and
21 regulations of this state, that recognizes the United States state regu-
22 latory approach to group supervision and group capital; or

23 (D)(i) provides information to the superintendent, either directly or
24 indirectly through the group-wide supervisor, who has determined such
25 information is satisfactory to allow the superintendent to comply with
26 the NAIC group supervision approach, as detailed in the NAIC financial
27 analysis handbook; and

28 (ii) has a non-United States group-wide supervisor that is not in a
29 reciprocal jurisdiction and that recognizes and accepts, as specified by
30 the superintendent in a regulation, the group capital calculation as the
31 world-wide group capital assessment for United States systems that oper-
32 ate in that jurisdiction.

33 (2) Notwithstanding subparagraphs (C) and (D) of paragraph one of this
34 subsection, when this state is the lead state, the superintendent shall
35 require the group capital calculation for United States operations of
36 any non-United States-based system where, after any necessary consulta-
37 tion with other supervisors or officials, it is deemed appropriate by
38 the superintendent for prudential oversight and solvency monitoring
39 purposes or for ensuring the competitiveness of the insurance market-
40 place.

41 (3) Notwithstanding the exemptions from filing the group capital
42 calculation set forth in paragraph one of this subsection, when this
43 state is the lead state, the superintendent has the discretion to exempt
44 an authorized domestic insurer from filing an annual group capital
45 calculation or accept a limited annual group capital calculation filing
46 or report in accordance with criteria as specified by the superintendent
47 in a regulation.

48 (4) When this state is the lead state, if the superintendent deter-
49 mines that an authorized domestic insurer no longer meets one or more of
50 the requirements for an exemption from filing the group capital calcu-
51 lation under this subsection, the authorized domestic insurer shall file
52 the group capital calculation at the next annual filing date unless
53 given an extension by the superintendent based on reasonable grounds
54 shown.

55 (d)(1) An authorized domestic insurer, other than a domestic insurer
56 required to register as a controlled insurer pursuant to section one

1 thousand five hundred three of this chapter, that has a subsidiary that
2 is scoped into the NAIC liquidity stress test framework shall file the
3 results of a specific year's annual liquidity stress test with the
4 superintendent when this state is the lead state as determined by the
5 procedures within the financial analysis handbook adopted by the NAIC
6 and as amended from time to time. When the lead state is not this
7 state, an authorized domestic insurer shall file with the superintendent
8 the results of a specific year's liquidity stress test if the authorized
9 domestic insurer has not filed the results with its lead state because
10 the lead state has not enacted a liquidity stress test filing require-
11 ment or the authorized domestic insurer has filed the results with the
12 lead state but the lead state is not willing or able to share the
13 results with the superintendent.

14 (2) Any change to the NAIC liquidity stress test framework or to the
15 data year for which the scope criteria are to be measured shall be
16 effective on January first of the year following the calendar year when
17 such changes are adopted. When this state is the lead state, an insurer
18 meeting at least one threshold of the scope criteria shall be considered
19 scoped into the NAIC liquidity stress test framework for the specified
20 data year unless the superintendent, in consultation with the NAIC
21 financial stability task force, or its successor, determines the insurer
22 shall not be scoped into the NAIC liquidity stress test framework for
23 that data year. When this state is the lead state, an insurer that does
24 not trigger at least one threshold of the scope criteria shall be
25 considered scoped out of the NAIC liquidity stress test framework for
26 the specified data year, unless the superintendent, in consultation with
27 the NAIC financial stability task force, or its successor, determines
28 the insurer shall be scoped into the NAIC liquidity stress test frame-
29 work for that data year. The superintendent, in consultation with the
30 NAIC financial stability task force, or its successor, shall assess the
31 concern of wishing to avoid having insurers scoped in and out of the
32 NAIC liquidity stress test framework on a frequent basis as part of the
33 determination for an insurer.

34 (e) No insurer, insurance producer, or other person shall make,
35 publish, disseminate, circulate, issue, or place before the public, or
36 cause directly or indirectly to be made, published, disseminated, circu-
37 lated, issued, or placed before the public, in this state, in a newspa-
38 per, magazine, or other publication, or in the form of a notice, circu-
39 lar, pamphlet, letter, or poster, or over any radio or television
40 station or any electronic means of communication available to the
41 public, or in any other way as an advertisement, announcement, or state-
42 ment containing a representation or statement with regard to the group
43 capital calculation, group capital ratio, liquidity stress test results,
44 or supporting disclosures for such test, or any component derived in the
45 calculation thereof, of any authorized domestic insurer or subsidiary
46 thereof, provided, however, that an insurer may publish, with the super-
47 intendent's prior approval, announcements in a written publication to
48 rebut any materially false statement with respect to the foregoing if
49 the insurer is able to demonstrate to the superintendent with substan-
50 tial proof the falsity of such statement or the inappropriateness, as
51 the case may be, and if the sole purpose of the announcement is to rebut
52 the materially false statement.

53 (f) For the purpose of this section:

54 (1) "Group capital calculation instructions" means the group capital
55 calculation instructions as adopted by the: (A) NAIC and as amended by

1 the NAIC from time to time in accordance with the procedures adopted by
2 the NAIC; and (B) superintendent pursuant to a regulation.

3 (2) "NAIC" means the National Association of Insurance Commissioners.

4 (3) "NAIC liquidity stress test framework" means an NAIC publication
5 that includes a history of the NAIC's development of regulatory liquidi-
6 ty stress testing, the scope criteria applicable for a specific data
7 year, and the liquidity stress test instructions and reporting templates
8 for a specific data year, such scope criteria, instructions and report-
9 ing template being as adopted by the: (A) NAIC and as amended by the
10 NAIC from time to time in accordance with the procedures adopted by the
11 NAIC; and (B) superintendent pursuant to a regulation.

12 (4) "Scope criteria" means the designated exposure bases along with
13 minimum magnitudes thereof for the specified data year, used to estab-
14 lish a preliminary list of insurers considered scoped into the NAIC
15 liquidity stress test framework for that data year.

16 § 9. The insurance law is amended by adding two new sections 1613 and
17 1614 to read as follows:

18 § 1613. Expenses for group-wide supervision. An authorized domestic
19 insurer shall be liable for and shall pay the reasonable expenses of the
20 superintendent's participation in the administration of group-wide
21 supervision of internationally active insurance groups, including the
22 engagement of attorneys, actuaries, and any other professionals and all
23 reasonable travel expenses.

24 § 1614. Confidentiality of reports and filings. The contents of each
25 report and filing submitted pursuant to this article and information
26 pertaining thereto shall be kept confidential, shall not be subject to
27 subpoena or discovery, shall not be admissible in evidence in any
28 private civil action, and shall not be made public unless, after notice
29 and opportunity to be heard, the superintendent determines that the
30 interests of policyholders, subscribers, stockholders or the public will
31 be served by the publication thereof. Neither the superintendent nor any
32 person who received a report or filing submitted pursuant to this arti-
33 cle and information pertaining thereto, through examination or other-
34 wise, while acting under the authority of the superintendent or with
35 whom such report or information are shared pursuant to this chapter,
36 shall be permitted or required to testify in any private civil action
37 concerning the report, filing, or information.

38 § 10. The section heading of section 1702 of the insurance law, as
39 amended by chapter 238 of the laws of 2013, is amended to read as
40 follows:

41 ~~[Meaning of "subsidiary", "parent corporation" and "enterprise risk",~~
42 ~~certain types of subsidiaries defined] Definitions.~~

43 § 11. Section 1702 of the insurance law is amended by adding four new
44 subsections (g), (h), (i) and (j) to read as follows:

45 (g) "Group capital calculation instructions" means the group capital
46 calculation instructions as adopted by the: (1) NAIC and as amended by
47 the NAIC from time to time in accordance with the procedures adopted by
48 the NAIC; and (2) superintendent pursuant to a regulation.

49 (h) "NAIC" means the National Association of Insurance Commissioners.

50 (i) "NAIC liquidity stress test framework" means an NAIC publication
51 that includes a history of the NAIC's development of regulatory liquidi-
52 ty stress testing, the scope criteria applicable for a specific data
53 year, and the liquidity stress test instructions and reporting templates
54 for a specific data year, such scope criteria, instructions and report-
55 ing template being as adopted by the: (1) NAIC and as amended by the

1 NAIC from time to time in accordance with the procedures adopted by the
2 NAIC; and (2) superintendent pursuant to a regulation.

3 (j) "Scope criteria" means the designated exposure bases along with
4 minimum magnitudes thereof for the specified data year, used to estab-
5 lish a preliminary list of insurers considered scoped into the NAIC
6 liquidity stress test framework for that data year.

7 § 12. Section 1709 of the insurance law, as amended by chapter 381 of
8 the laws of 1986, is amended to read as follows:

9 § 1709. Confidentiality of [~~information~~] reports and filings. The
10 contents of each [~~information~~] report [~~filed hereunder~~] and filing
11 submitted pursuant to this article and information pertaining thereto
12 shall be kept confidential, shall not be subject to subpoena or discov-
13 ery, shall not be admissible in evidence in any private civil action,
14 and shall not be made public unless, after notice and opportunity to be
15 heard, the superintendent determines that the interests of policyhold-
16 ers, subscribers, stockholders or the public will be served by the
17 publication thereof. The provisions of this section shall not be appli-
18 cable to any [~~information~~] report [~~filed hereunder~~] or filing submitted
19 pursuant to this article and any information pertaining thereto, if the
20 parent corporation is a corporation subject to article forty-three of
21 this chapter. Neither the superintendent nor any person who received a
22 report or filing submitted pursuant to this article and information
23 pertaining thereto, through examination or otherwise, while acting under
24 the authority of the superintendent or with whom such report or informa-
25 tion are shared pursuant to this chapter, shall be permitted or required
26 to testify in any private civil action concerning the report, filing, or
27 information.

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

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

37 § 14. Section 1717 of the insurance law is amended by adding three new
38 subsections (c), (d) and (e) to read as follows:

39 (c) (1) A parent corporation, other than a parent corporation required
40 to register as a controlled insurer pursuant to section one thousand
41 five hundred three of this chapter, shall file with the superintendent
42 an annual group capital calculation by April thirtieth of each year when
43 this state is the lead state as determined in accordance with the proce-
44 dures within the financial analysis handbook adopted by the NAIC, as
45 amended from time to time. When the lead state is not this state, a
46 parent corporation shall file with the superintendent the annual group
47 capital calculation if the parent corporation has not filed the annual
48 group capital calculation with its lead state because the lead state has
49 not enacted an annual group capital calculation filing requirement or
50 the parent corporation has filed the annual group capital calculation
51 with the lead state but the lead state is not willing or able to share
52 the annual group capital calculation with the superintendent. The
53 parent corporation shall complete the annual group capital calculation
54 in accordance with the group capital calculation instructions, which may
55 permit the superintendent to allow a subsidiary to file the annual group
56 capital calculation. When this state is the lead state, a parent corpo-

1 ration shall be exempt from filing an annual group capital calculation
2 if it:

3 (A) has only one insurer subsidiary that only writes business and is
4 only licensed in its domestic state and assumes no business from any
5 other insurer;

6 (B) is required to perform a group capital calculation specified by
7 the United States Federal Reserve Board, except that the parent corpo-
8 ration shall not be exempt if the superintendent requests the group
9 capital calculation from the United States Federal Reserve Board under
10 the terms of information sharing agreements in effect and the Federal
11 Reserve Board cannot share the calculation with the superintendent;

12 (C) has a non-United States group-wide supervisor that is located
13 within a reciprocal jurisdiction, as described in part one hundred twen-
14 ty-five of title eleven of the official compilation of codes, rules and
15 regulations of this state, that recognizes the United States state regu-
16 latory approach to group supervision and group capital; or

17 (D)(i) provides information to the superintendent, either directly or
18 indirectly through the group-wide supervisor, who has determined such
19 information is satisfactory to allow the superintendent to comply with
20 the NAIC group supervision approach, as detailed in the NAIC financial
21 analysis handbook; and

22 (ii) has a non-United States group-wide supervisor that is not in a
23 reciprocal jurisdiction that recognizes and accepts, as specified by the
24 superintendent in a regulation, the group capital calculation as the
25 world-wide group capital assessment for United States systems that oper-
26 ate in that jurisdiction.

27 (2) Notwithstanding subparagraphs (C) and (D) of paragraph one of this
28 subsection, when this state is the lead state, the superintendent shall
29 require the group capital calculation for United States operations of
30 any non-United States-based system where, after any necessary consulta-
31 tion with other supervisors or officials, it is deemed appropriate by
32 the superintendent for prudential oversight and solvency monitoring
33 purposes or for ensuring the competitiveness of the insurance market-
34 place.

35 (3) Notwithstanding the exemptions from filing the group capital
36 calculation set forth in paragraph one of this subsection, when this
37 state is the lead state, the superintendent has the discretion to exempt
38 a parent corporation from filing an annual group capital calculation
39 or accept a limited annual group capital calculation filing or report in
40 accordance with criteria as specified by the superintendent in a regu-
41 lation.

42 (4) When this state is the lead state, if the superintendent deter-
43 mines that a parent corporation no longer meets one or more of the
44 requirements for an exemption from filing the group capital calculation
45 under this subsection, the parent corporation shall file the group capi-
46 tal calculation at the next annual filing date unless given an extension
47 by the superintendent based on reasonable grounds shown.

48 (d)(1) A parent corporation, other than a parent corporation required
49 to register as a controlled insurer pursuant to section one thousand
50 five hundred three of this chapter, that has a subsidiary that is scoped
51 into the NAIC liquidity stress test framework shall file the results of
52 a specific year's liquidity stress test with the superintendent when
53 this state is the lead state as determined by the procedures within the
54 financial analysis handbook adopted by the NAIC and as amended from time
55 to time. When the lead state is not this state, a parent corporation
56 shall file with the superintendent the results of a specific year's

1 liquidity stress test if the parent corporation has not filed the
2 results with its lead state because the lead state has not enacted a
3 liquidity stress test filing requirement or the parent corporation has
4 filed the results with the lead state but the lead state is not willing
5 or able to share the results with the superintendent.

6 (2) Any change to the NAIC liquidity stress test framework or to the
7 data year for which the scope criteria are to be measured shall be
8 effective on January first of the year following the calendar year when
9 such changes are adopted. When this state is the lead state, an insurer
10 meeting at least one threshold of the scope criteria shall be considered
11 scoped into the NAIC liquidity stress test framework for the specified
12 data year unless the superintendent, in consultation with the NAIC
13 financial stability task force, or its successor, determines the insurer
14 shall not be scoped into the NAIC liquidity stress test framework for
15 that data year. When this state is the lead state, an insurer that does
16 not trigger at least one threshold of the scope criteria shall be
17 considered scoped out of the NAIC liquidity stress test framework for
18 the specified data year, unless the superintendent, in consultation with
19 the NAIC financial stability task force, or its successor, determines
20 the insurer shall be scoped into the NAIC liquidity stress test frame-
21 work for that data year. The superintendent, in consultation with the
22 NAIC financial stability task force, or its successor, shall assess the
23 concern of wishing to avoid having insurers scoped in and out of the
24 NAIC liquidity stress test framework on a frequent basis as part of the
25 determination for an insurer.

26 (e) No insurer, insurance producer, or other person shall make,
27 publish, disseminate, circulate, issue, or place before the public, or
28 cause directly or indirectly to be made, published, disseminated, circu-
29 lated, issued, or placed before the public, in this state, in a newspa-
30 per, magazine, or other publication, or in the form of a notice, circu-
31 lar, pamphlet, letter, or poster, or over any radio or television
32 station or any electronic means of communication available to the
33 public, or in any other way as an advertisement, announcement, or state-
34 ment containing a representation or statement with regard to the group
35 capital calculation, group capital ratio, liquidity stress test
36 results or supporting disclosures for such test, or any component
37 derived in the calculation thereof, of any parent corporation or
38 subsidiary thereof, provided, however, that a parent corporation may
39 publish, with the superintendent's prior approval, announcements in a
40 written publication to rebut any materially false statement with respect
41 to the foregoing if the insurer is able to demonstrate to the super-
42 intendent with substantial proof the falsity of such statement or the
43 inappropriateness, as the case may be, and if the sole purpose of the
44 announcement is to rebut the materially false statement.

45 § 15. The insurance law is amended by adding a new section 1718 to
46 read as follows:

47 § 1718. Expenses for group-wide supervision. A parent corporation
48 shall be liable for and shall pay the reasonable expenses of the super-
49 intendent's participation in the administration of group-wide super-
50 vision of internationally active insurance groups, including the engage-
51 ment of attorneys, actuaries, and any other professionals and all
52 reasonable travel expenses.

53 § 16. This act shall take effect immediately.