

# STATE OF NEW YORK

7356--A

2023-2024 Regular Sessions

## IN ASSEMBLY

May 18, 2023

Introduced by M. of A. WEPRIN -- read once and referred to the Committee on Insurance -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 New York Liquidation Bureau, with the National  
10 Association of Insurance Commissioners, its affiliates or subsidiaries,  
11 [~~and~~] with any third-party consultant designated by the superintendent,  
12 with local, state, federal, and international law enforcement authori-  
13 ties, including members of any supervisory college described in section  
14 three hundred two of this chapter, provided that the recipient has the  
15 authority and agrees to maintain the confidentiality and privileged  
16 status of the document, material or other information and has verified  
17 in writing the legal authority to maintain confidentiality; provided,  
18 however, that this paragraph shall not be construed as limiting access  
19 to records pursuant to article six of the public officers law, except as  
20 provided in paragraph three of subsection (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 New York Liquidation Bureau, from the

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

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1 National Association of Insurance Commissioners, its affiliates or  
2 subsidiaries [~~and~~], from regulatory and law enforcement officials of  
3 other foreign or domestic jurisdictions, including members of any super-  
4 visory college described in section three hundred two of this chapter,  
5 and from any other entity designated by the superintendent in a regu-  
6 lation, and shall maintain as confidential or privileged any document,  
7 material or information received with notice or the understanding that  
8 it is confidential or privileged under the laws of the jurisdiction that  
9 is the source of the document, material or information; and

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

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

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

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

27 (8) "Group capital calculation instructions" means the group capital  
28 calculation instructions as adopted by the NAIC and as amended by the  
29 NAIC from time to time in accordance with the procedures adopted by the  
30 NAIC, except where such instructions conflict with the laws of this  
31 state and subject to exceptions the superintendent may take in a regu-  
32 lation upon a written finding that the exceptions would not be unduly  
33 burdensome on the holding company or insurer.

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

35 (10) "NAIC liquidity stress test framework" means an NAIC publication  
36 that includes a history of the NAIC's development of regulatory liquidi-  
37 ty stress testing, the scope criteria applicable for a specific data  
38 year, and the liquidity stress test instructions and reporting templates  
39 for a specific data year, such scope criteria, instructions and report-  
40 ing template being as adopted by the NAIC and as amended by the NAIC  
41 from time to time in accordance with the procedures adopted by the NAIC,  
42 except where such instructions conflicts with the laws of this state and  
43 subject to exceptions the superintendent may take in a regulation upon a  
44 written finding that the exceptions would not be unduly burdensome on  
45 the holding company or insurer.

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

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

52 (c) (1) An ultimate holding company shall file with the superintendent  
53 an annual group capital calculation by June thirtieth of each year when  
54 this state is the lead state of the holding company system as determined  
55 in accordance with the procedures within the financial analysis handbook  
56 adopted by the NAIC, as amended from time to time. When the lead state

1 is not this state, an ultimate holding company shall file with the  
2 superintendent the annual group capital calculation as adopted by its  
3 lead state if the ultimate holding company has filed the annual group  
4 capital calculation with the lead state but the lead state is not will-  
5 ing or able to share the annual group capital calculation with the  
6 superintendent.

7 (2) When this state is the lead state, the ultimate holding company  
8 shall complete the annual group capital calculation in accordance with  
9 the group capital calculation instructions, which may permit the super-  
10 intendent to allow a holding company that is not the ultimate holding  
11 company to file the annual group capital calculation.

12 (3) When this state is the lead state, an ultimate holding company  
13 shall be exempt from filing an annual group capital calculation if it is  
14 part of a holding company system that:

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

18 (B) is required to perform a group capital calculation specified by  
19 the United States Federal Reserve Board, except that the holding company  
20 shall not be exempt if the superintendent requests the group capital  
21 calculation from the United States Federal Reserve Board under the terms  
22 of information sharing agreements in effect and the Federal Reserve  
23 Board cannot share the calculation with the superintendent;

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

29 (D)(i) provides information to the superintendent, either directly or  
30 indirectly through the group-wide supervisor, who has determined such  
31 information is satisfactory to allow the superintendent to comply with  
32 the NAIC group supervision approach, as detailed in the NAIC financial  
33 analysis handbook; and

34 (ii) has a non-United States group-wide supervisor that is not in a  
35 reciprocal jurisdiction that recognizes and accepts, as specified by the  
36 superintendent in a regulation, the group capital calculation as the  
37 world-wide group capital assessment for United States holding company  
38 systems that operate in that jurisdiction.

39 (4) Notwithstanding subparagraphs (C) and (D) of paragraph three of  
40 this subsection, when this state is the lead state, the superintendent  
41 shall require the group capital calculation for United States operations  
42 of any non-United States-based holding company system where, after any  
43 necessary consultation with other supervisors or officials, it is deemed  
44 appropriate by the superintendent for prudential oversight and solvency  
45 monitoring purposes or for ensuring the competitiveness of the insurance  
46 marketplace.

47 (5) Notwithstanding the exemptions from filing the group capital  
48 calculation set forth in paragraph three of this subsection, when this  
49 state is the lead state, the superintendent has the discretion to exempt  
50 a holding company from filing an annual group capital calculation or  
51 accept a limited group capital calculation filing or report in accord-  
52 ance with criteria as specified by the superintendent in a regulation.

53 (6) When this state is the lead state, if the superintendent deter-  
54 mines that a holding company no longer meets one or more of the require-  
55 ments for an exemption from filing the group capital calculation under  
56 this subsection, the holding company shall file the group capital calcu-

1 lation at the next annual filing date unless given an extension by the  
2 superintendent based on reasonable grounds shown.

3 (d)(1) An ultimate holding company that directly or indirectly  
4 controls an insurer subject to registration and that is scoped into the  
5 NAIC liquidity stress test framework shall file the results of a specif-  
6 ic year's annual liquidity stress test with the superintendent when this  
7 state is the lead state of the holding company system as determined by  
8 the procedures within the financial analysis handbook adopted by the  
9 NAIC and as amended from time to time.

10 (2) When the lead state is not this state, an ultimate holding company  
11 shall file with the superintendent the results of a specific year's  
12 liquidity stress test as adopted by its lead state if the ultimate hold-  
13 ing company has filed the results with the lead state but the lead state  
14 is not willing or able to share the results with the superintendent.

15 (3) When this state is the lead state, the performance of, and filing  
16 of the results from, a specific year's liquidity stress test shall  
17 comply with the NAIC liquidity stress test framework.

18 (4) When this state is the lead state, any change to the NAIC liquidi-  
19 ty stress test framework or to the data year for which the scope crite-  
20 ria are to be measured shall be effective on January first of the year  
21 following the calendar year when such changes are adopted.

22 (5) When this state is the lead state, an insurer meeting at least one  
23 threshold of the scope criteria shall be considered scoped into the NAIC  
24 liquidity stress test framework for the specified data year unless the  
25 superintendent, in consultation with the NAIC financial stability task  
26 force, or its successor, determines the insurer shall not be scoped into  
27 the NAIC liquidity stress test framework for that data year.

28 (6) When this state is the lead state, an insurer that does not trig-  
29 ger at least one threshold of the scope criteria shall be considered  
30 scoped out of the NAIC liquidity stress test framework for the specified  
31 data year, unless the superintendent, in consultation with the NAIC  
32 financial stability task force, or its successor, determines the insurer  
33 shall be scoped into the NAIC liquidity stress test framework for that  
34 data year.

35 (7) The superintendent, in consultation with the NAIC financial  
36 stability task force, or its successor, shall assess the concern of  
37 wishing to avoid having insurers scoped in and out of the NAIC liquidity  
38 stress test framework on a frequent basis as part of the determination  
39 for an insurer.

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

1 if the sole purpose of the announcement is to rebut the materially false  
2 statement.

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

5 (c) ~~(1) The [superintendent shall keep the]~~ contents of each report  
6 and filing made pursuant to this article and any information obtained in  
7 connection therewith shall be confidential and proprietary and shall not  
8 be subject to subpoena or discovery or admissible in evidence in any  
9 private civil action, and the superintendent shall not make the same  
10 public without the prior written consent of the controlled insurer to  
11 which it pertains unless the superintendent, after notice and an oppor-  
12 tunity to be heard, shall determine that the interests of policyholders,  
13 shareholders or the public will be served by the publication thereof. In  
14 any action or proceeding by the superintendent against the person exam-  
15 ined or any other person within the same holding company system a report  
16 of such examination published by the superintendent shall be admissible  
17 as evidence of the facts stated therein.

18 (2) Neither the superintendent nor any person who received a report or  
19 filing made pursuant to this article and any information obtained in  
20 connection therewith, through examination or otherwise, while acting  
21 under the authority of the superintendent or with whom such report,  
22 filing, or information are shared pursuant to this chapter, shall be  
23 permitted or required to testify in any private civil action concerning  
24 the report, filing, or information.

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

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

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

35 § 1511. Expenses for group-wide supervision. A controlled insurer  
36 shall be liable for and shall pay the reasonable expenses of the super-  
37 intendent's participation in the administration of group-wide super-  
38 vision of internationally active insurance groups, including the engage-  
39 ment of attorneys, actuaries, and any other professionals and all  
40 reasonable travel expenses.

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

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

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

51 (c) (1) An authorized domestic insurer, other than a domestic insurer  
52 required to register as a controlled insurer pursuant to section one  
53 thousand five hundred three of this chapter, shall file with the super-  
54 intendent an annual group capital calculation by June thirtieth of each  
55 year when this state is the lead state as determined in accordance with

1 the procedures within the financial analysis handbook adopted by the  
2 NAIC, as amended from time to time.

3 (2) When the lead state is not this state, an authorized domestic  
4 insurer shall file with the superintendent the annual group capital  
5 calculation as adopted by its lead state if the authorized domestic  
6 insurer has filed the annual group capital calculation with the lead  
7 state but the lead state is not willing or able to share the annual  
8 group capital calculation with the superintendent.

9 (3) When this state is the lead state, the authorized domestic insurer  
10 shall complete the annual group capital calculation in accordance with  
11 the group capital calculation instructions, which may permit the super-  
12 intendent to allow a subsidiary to file the annual group capital calcu-  
13 lation.

14 (4) When this state is the lead state, an authorized domestic insurer  
15 shall be exempt from filing an annual group capital calculation if it:

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

19 (B) is required to perform a group capital calculation specified by  
20 the United States Federal Reserve Board, except that the authorized  
21 domestic insurer shall not be exempt if the superintendent requests the  
22 group capital calculation from the United States Federal Reserve Board  
23 under the terms of information sharing agreements in effect and the  
24 Federal Reserve Board cannot share the calculation with the superinten-  
25 dent;

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

31 (D)(i) provides information to the superintendent, either directly or  
32 indirectly through the group-wide supervisor, who has determined such  
33 information is satisfactory to allow the superintendent to comply with  
34 the NAIC group supervision approach, as detailed in the NAIC financial  
35 analysis handbook; and

36 (ii) has a non-United States group-wide supervisor that is not in a  
37 reciprocal jurisdiction and that recognizes and accepts, as specified by  
38 the superintendent in a regulation, the group capital calculation as the  
39 world-wide group capital assessment for United States systems that oper-  
40 ate in that jurisdiction.

41 (5) Notwithstanding subparagraphs (C) and (D) of paragraph four of  
42 this subsection, when this state is the lead state, the superintendent  
43 shall require the group capital calculation for United States operations  
44 of any non-United States-based system where, after any necessary consul-  
45 tation with other supervisors or officials, it is deemed appropriate by  
46 the superintendent for prudential oversight and solvency monitoring  
47 purposes or for ensuring the competitiveness of the insurance market-  
48 place.

49 (6) Notwithstanding the exemptions from filing the group capital  
50 calculation set forth in paragraph four of this subsection, when this  
51 state is the lead state, the superintendent has the discretion to exempt  
52 an authorized domestic insurer from filing an annual group capital  
53 calculation or accept a limited annual group capital calculation filing  
54 or report in accordance with criteria as specified by the superintendent  
55 in a regulation.

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

8 (d)(1) An authorized domestic insurer, other than a domestic insurer  
9 required to register as a controlled insurer pursuant to section one  
10 thousand five hundred three of this chapter, that has a subsidiary that  
11 is scoped into the NAIC liquidity stress test framework shall file the  
12 results of a specific year's annual liquidity stress test with the  
13 superintendent when this state is the lead state as determined by the  
14 procedures within the financial analysis handbook adopted by the NAIC  
15 and as amended from time to time.

16 (2) When the lead state is not this state, an authorized domestic  
17 insurer shall file with the superintendent the results of a specific  
18 year's liquidity stress test as adopted by its lead state if the author-  
19 ized domestic insurer has filed the results with the lead state but the  
20 lead state is not willing or able to share the results with the super-  
21 intendent.

22 (3) When this state is the lead state, the performance of, and filing  
23 of the results from, a specific year's liquidity stress test shall  
24 comply with the NAIC liquidity stress test framework.

25 (4) When this state is the lead state, any change to the NAIC liquidi-  
26 ty stress test framework or to the data year for which the scope crite-  
27 ria are to be measured shall be effective on January first of the year  
28 following the calendar year when such changes are adopted.

29 (5) When this state is the lead state, an insurer meeting at least one  
30 threshold of the scope criteria shall be considered scoped into the NAIC  
31 liquidity stress test framework for the specified data year unless the  
32 superintendent, in consultation with the NAIC financial stability task  
33 force, or its successor, determines the insurer shall not be scoped into  
34 the NAIC liquidity stress test framework for that data year.

35 (6) When this state is the lead state, an insurer that does not trig-  
36 ger at least one threshold of the scope criteria shall be considered  
37 scoped out of the NAIC liquidity stress test framework for the specified  
38 data year, unless the superintendent, in consultation with the NAIC  
39 financial stability task force, or its successor, determines the insurer  
40 shall be scoped into the NAIC liquidity stress test framework for that  
41 data year.

42 (7) The superintendent, in consultation with the NAIC financial  
43 stability task force, or its successor, shall assess the concern of  
44 wishing to avoid having insurers scoped in and out of the NAIC liquidity  
45 stress test framework on a frequent basis as part of the determination  
46 for an insurer.

47 (e) No insurer, insurance producer, or other person shall make,  
48 publish, disseminate, circulate, issue, or place before the public, or  
49 cause directly or indirectly to be made, published, disseminated, circu-  
50 lated, issued, or placed before the public, in this state, in a newspa-  
51 per, magazine, or other publication, or in the form of a notice, circu-  
52 lar, pamphlet, letter, or poster, or over any radio or television  
53 station or any electronic means of communication available to the  
54 public, or in any other way as an advertisement, announcement, or state-  
55 ment containing a representation or statement with regard to the group  
56 capital calculation, group capital ratio, liquidity stress test results,

1 or supporting disclosures for such test, or any component derived in the  
2 calculation thereof, of any authorized domestic insurer or subsidiary  
3 thereof, provided, however, that an insurer may publish, with the super-  
4 intendent's prior approval, announcements in a written publication to  
5 rebut any materially false statement with respect to the foregoing if  
6 the insurer is able to demonstrate to the superintendent with substan-  
7 tial proof the falsity of such statement or the inappropriateness, as  
8 the case may be, and if the sole purpose of the announcement is to rebut  
9 the materially false statement.

10 (f) For the purpose of this section:

11 (1) "Group capital calculation instructions" means the group capital  
12 calculation instructions as adopted by the NAIC and as amended by the  
13 NAIC from time to time in accordance with the procedures adopted by the  
14 NAIC, except where such instructions conflict with the laws of this  
15 state and subject to exceptions the superintendent may take in a regu-  
16 lation upon a written finding that the exceptions would not be unduly  
17 burdensome on the domestic insurer or subsidiary.

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

19 (3) "NAIC liquidity stress test framework" means an NAIC publication  
20 that includes a history of the NAIC's development of regulatory liquidi-  
21 ty stress testing, the scope criteria applicable for a specific data  
22 year, and the liquidity stress test instructions and reporting templates  
23 for a specific data year, such scope criteria, instructions and report-  
24 ing template being as adopted by the NAIC and as amended by the NAIC  
25 from time to time in accordance with the procedures adopted by the NAIC,  
26 except where such publication conflicts with the laws of this state and  
27 subject to exceptions the superintendent may take in a regulation upon a  
28 written finding that the exceptions would not be unduly burdensome on  
29 the domestic insurer or subsidiary.

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

34 § 9. The insurance law is amended by adding two new sections 1613 and  
35 1614 to read as follows:

36 § 1613. Expenses for group-wide supervision. An authorized domestic  
37 insurer shall be liable for and shall pay the reasonable expenses of the  
38 superintendent's participation in the administration of group-wide  
39 supervision of internationally active insurance groups, including the  
40 engagement of attorneys, actuaries, and any other professionals and all  
41 reasonable travel expenses.

42 § 1614. Confidentiality of reports and filings. The contents of each  
43 report and filing submitted pursuant to this article and information  
44 pertaining thereto shall be kept confidential, shall not be subject to  
45 subpoena or discovery, shall not be admissible in evidence in any  
46 private civil action, and shall not be made public unless, after notice  
47 and opportunity to be heard, the superintendent determines that the  
48 interests of policyholders, subscribers, stockholders or the public will  
49 be served by the publication thereof. Neither the superintendent nor any  
50 person who received a report or filing submitted pursuant to this arti-  
51 cle and information pertaining thereto, through examination or other-  
52 wise, while acting under the authority of the superintendent or with  
53 whom such report or information are shared pursuant to this chapter,  
54 shall be permitted or required to testify in any private civil action  
55 concerning the report, filing, or information.

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

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

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

8 (g) "Group capital calculation instructions" means the group capital  
9 calculation instructions as adopted by the NAIC and as amended by the  
10 NAIC from time to time in accordance with the procedures adopted by the  
11 NAIC, except where such instructions conflict with the laws of this  
12 state and subject to exceptions the superintendent may take in a regu-  
13 lation upon a written finding that the exceptions would not be unduly  
14 burdensome on the parent corporation or subsidiary.

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

16 (i) "NAIC liquidity stress test framework" means an NAIC publication  
17 that includes a history of the NAIC's development of regulatory liquidi-  
18 ty stress testing, the scope criteria applicable for a specific data  
19 year, and the liquidity stress test instructions and reporting templates  
20 for a specific data year, such scope criteria, instructions and report-  
21 ing template being as adopted by the NAIC and as amended by the NAIC  
22 from time to time in accordance with the procedures adopted by the NAIC,  
23 except where such instructions conflict with the laws of this state and  
24 subject to exceptions the superintendent may take in a regulation upon a  
25 written finding that the exceptions would not be unduly burdensome on  
26 the parent corporation or subsidiary.

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

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

33 § 1709. Confidentiality of ~~[information]~~ reports and filings. The  
34 contents of each ~~[information]~~ report ~~[filed hereunder]~~ and filing  
35 submitted pursuant to this article and information pertaining thereto  
36 shall be kept confidential, shall not be subject to subpoena or discov-  
37 ery, shall not be admissible in evidence in any private civil action,  
38 and shall not be made public unless, after notice and opportunity to be  
39 heard, the superintendent determines that the interests of policyhold-  
40 ers, subscribers, stockholders or the public will be served by the  
41 publication thereof. The provisions of this section shall not be appli-  
42 cable to any ~~[information]~~ report ~~[filed hereunder]~~ or filing submitted  
43 pursuant to this article and any information pertaining thereto, if the  
44 parent corporation is a corporation subject to article forty-three of  
45 this chapter. Neither the superintendent nor any person who received a  
46 report or filing submitted pursuant to this article and information  
47 pertaining thereto, through examination or otherwise, while acting under  
48 the authority of the superintendent or with whom such report or informa-  
49 tion are shared pursuant to this chapter, shall be permitted or required  
50 to testify in any private civil action concerning the report, filing, or  
51 information.

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

54 (a) Any parent corporation seeking to divest its controlling interest  
55 in a domestic insurer, in any manner, shall file with the superinten-  
56 dent, with a copy to the insurer, notice of its proposed divestiture at

1 least thirty days prior to the cessation of control, provided, however  
2 that this subsection shall not apply if notice is provided as required  
3 by subsection (b) of section one thousand seven hundred one of this  
4 article.

5 § 14. The opening paragraph of paragraph 1 of subsection (b) of  
6 section 1712 of the insurance law, as added by chapter 238 of the laws  
7 of 2013, is amended to read as follows:

8 sales, purchases, exchanges, loans, extensions of credit, or invest-  
9 ments with a [~~subsidy~~] subsidiary, provided the transactions are equal  
10 to or exceed:

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

13 (c) (1) A parent corporation, other than a parent corporation required  
14 to register as a controlled insurer pursuant to section one thousand  
15 five hundred three of this chapter, shall file with the superintendent  
16 an annual group capital calculation by June thirtieth of each year when  
17 this state is the lead state as determined in accordance with the proce-  
18 dures within the financial analysis handbook adopted by the NAIC, as  
19 amended from time to time.

20 (2) When the lead state is not this state, a parent corporation shall  
21 file with the superintendent the annual group capital calculation as  
22 adopted by its lead state if the parent corporation has filed the annual  
23 group capital calculation with the lead state but the lead state is not  
24 willing or able to share the annual group capital calculation with the  
25 superintendent.

26 (3) When this state is the lead state, the parent corporation shall  
27 complete the annual group capital calculation in accordance with the  
28 group capital calculation instructions, which may permit the superinten-  
29 dent to allow a subsidiary to file the annual group capital calculation.

30 (4) When this state is the lead state, a parent corporation shall be  
31 exempt from filing an annual group capital calculation if it:

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

35 (B) is required to perform a group capital calculation specified by  
36 the United States Federal Reserve Board, except that the parent corpo-  
37 ration shall not be exempt if the superintendent requests the group  
38 capital calculation from the United States Federal Reserve Board under  
39 the terms of information sharing agreements in effect and the Federal  
40 Reserve Board cannot share the calculation with the superintendent;

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

46 (D)(i) provides information to the superintendent, either directly or  
47 indirectly through the group-wide supervisor, who has determined such  
48 information is satisfactory to allow the superintendent to comply with  
49 the NAIC group supervision approach, as detailed in the NAIC financial  
50 analysis handbook; and

51 (ii) has a non-United States group-wide supervisor that is not in a  
52 reciprocal jurisdiction that recognizes and accepts, as specified by the  
53 superintendent in a regulation, the group capital calculation as the  
54 world-wide group capital assessment for United States systems that oper-  
55 ate in that jurisdiction.

1 (5) Notwithstanding subparagraphs (C) and (D) of paragraph four of  
2 this subsection, when this state is the lead state, the superintendent  
3 shall require the group capital calculation for United States operations  
4 of any non-United States-based system where, after any necessary consul-  
5 tation with other supervisors or officials, it is deemed appropriate by  
6 the superintendent for prudential oversight and solvency monitoring  
7 purposes or for ensuring the competitiveness of the insurance market-  
8 place.

9 (6) Notwithstanding the exemptions from filing the group capital  
10 calculation set forth in paragraph four of this subsection, when this  
11 state is the lead state, the superintendent has the discretion to exempt  
12 a parent corporation from filing an annual group capital calculation  
13 or accept a limited annual group capital calculation filing or report in  
14 accordance with criteria as specified by the superintendent in a regu-  
15 lation.

16 (7) When this state is the lead state, if the superintendent deter-  
17 mines that a parent corporation no longer meets one or more of the  
18 requirements for an exemption from filing the group capital calculation  
19 under this subsection, the parent corporation shall file the group capi-  
20 tal calculation at the next annual filing date unless given an extension  
21 by the superintendent based on reasonable grounds shown.

22 (d)(1) A parent corporation, other than a parent corporation required  
23 to register as a controlled insurer pursuant to section one thousand  
24 five hundred three of this chapter, that has a subsidiary that is scoped  
25 into the NAIC liquidity stress test framework shall file the results of  
26 a specific year's liquidity stress test with the superintendent when  
27 this state is the lead state as determined by the procedures within the  
28 financial analysis handbook adopted by the NAIC and as amended from time  
29 to time.

30 (2) When the lead state is not this state, a parent corporation shall  
31 file with the superintendent the results of a specific year's liquidity  
32 stress test as adopted by its lead state if the parent corporation has  
33 filed the results with the lead state but the lead state is not willing  
34 or able to share the results with the superintendent.

35 (3) When this state is the lead state, the performance of, and filing  
36 of the results from, a specific year's liquidity stress test shall  
37 comply with the NAIC liquidity stress test framework.

38 (4) When the lead state is this state, any change to the NAIC liquidi-  
39 ty stress test framework or to the data year for which the scope crite-  
40 ria are to be measured shall be effective on January first of the year  
41 following the calendar year when such changes are adopted.

42 (5) When this state is the lead state, an insurer meeting at least one  
43 threshold of the scope criteria shall be considered scoped into the NAIC  
44 liquidity stress test framework for the specified data year unless the  
45 superintendent, in consultation with the NAIC financial stability task  
46 force, or its successor, determines the insurer shall not be scoped into  
47 the NAIC liquidity stress test framework for that data year.

48 (6) When this state is the lead state, an insurer that does not trig-  
49 ger at least one threshold of the scope criteria shall be considered  
50 scoped out of the NAIC liquidity stress test framework for the specified  
51 data year, unless the superintendent, in consultation with the NAIC  
52 financial stability task force, or its successor, determines the insurer  
53 shall be scoped into the NAIC liquidity stress test framework for that  
54 data year.

55 (7) The superintendent, in consultation with the NAIC financial  
56 stability task force, or its successor, shall assess the concern of

1 wishing to avoid having insurers scoped in and out of the NAIC liquidity  
2 stress test framework on a frequent basis as part of the determination  
3 for an insurer.

4 (e) No insurer, insurance producer, or other person shall make,  
5 publish, disseminate, circulate, issue, or place before the public, or  
6 cause directly or indirectly to be made, published, disseminated, circu-  
7 lated, issued, or placed before the public, in this state, in a newspa-  
8 per, magazine, or other publication, or in the form of a notice, circu-  
9 lar, pamphlet, letter, or poster, or over any radio or television  
10 station or any electronic means of communication available to the  
11 public, or in any other way as an advertisement, announcement, or state-  
12 ment containing a representation or statement with regard to the group  
13 capital calculation, group capital ratio, liquidity stress test  
14 results or supporting disclosures for such test, or any component  
15 derived in the calculation thereof, of any parent corporation or  
16 subsidiary thereof, provided, however, that a parent corporation may  
17 publish, with the superintendent's prior approval, announcements in a  
18 written publication to rebut any materially false statement with respect  
19 to the foregoing if the insurer is able to demonstrate to the super-  
20 intendent with substantial proof the falsity of such statement or the  
21 inappropriateness, as the case may be, and if the sole purpose of the  
22 announcement is to rebut the materially false statement.

23 § 16. The insurance law is amended by adding a new section 1718 to  
24 read as follows:

25 § 1718. Expenses for group-wide supervision. A parent corporation  
26 shall be liable for and shall pay the reasonable expenses of the super-  
27 intendent's participation in the administration of group-wide super-  
28 vision of internationally active insurance groups, including the engage-  
29 ment of attorneys, actuaries, and any other professionals and all  
30 reasonable travel expenses.

31 § 17. This act shall take effect immediately.