

STATE OF NEW YORK

7095--A

2023-2024 Regular Sessions

IN SENATE

May 18, 2023

Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- reported favorably from said committee and committed to the Committee on Finance -- 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-

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 this subsection, the holding company shall file the group capital calcu-
2 lation at the next annual filing date unless given an extension by the
3 superintendent based on reasonable grounds shown.

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

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

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

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

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

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

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

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

1 falsity of such statement or inappropriateness, as the case may be, and
2 if the sole purpose of the announcement is to rebut the materially false
3 statement.

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

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

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

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

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

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

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

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

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

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

52 (c) (1) An authorized domestic insurer, other than a domestic insurer
53 required to register as a controlled insurer pursuant to section one
54 thousand five hundred three of this chapter, shall file with the super-
55 intendent an annual group capital calculation by June thirtieth of each
56 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.