
A BILL FOR AN ACT

RELATING TO INSURANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 431:11-102, Hawaii Revised Statutes, is
2 amended by adding three new definitions to be appropriately
3 inserted and to read as follows:

4 "Group capital calculation instructions" means the group
5 capital calculation instructions as adopted by the National
6 Association of Insurance Commissioners or the most recent
7 version if adopted by the commissioner, which the commissioner
8 may adopt by order and which shall not constitute rulemaking
9 under chapter 91.

10 "Liquidity stress test framework" means the separate
11 National Association of Insurance Commissioners publication that
12 includes a history of the National Association of Insurance
13 Commissioners' development of regulatory liquidity stress
14 testing, the scope criteria applicable for a specific data year,
15 and the liquidity stress test instructions and reporting
16 templates for a specific data year, the scope criteria,
17 instructions, and reporting template as adopted by the National



1 Association of Insurance Commissioners or the most recent
2 version of the separate National Association of Insurance
3 Commissioners publication if adopted by the commissioner, which
4 the commissioner may adopt by order and which shall not
5 constitute rulemaking under chapter 91.

6 "Scope criteria" means the designated exposure bases along
7 with minimum magnitudes thereof for the specified data year,
8 used to establish a preliminary list of insurers considered
9 scoped into the liquidity stress test framework for that data
10 year."

11 SECTION 2. Section 431:11-105, Hawaii Revised Statutes, is
12 amended as follows:

13 1. By amending subsection (d) to read:

14 "(d) No information need be disclosed on the registration
15 statement filed pursuant to subsection (b) if the information is
16 not material for the purposes of this section. Unless the
17 commissioner by rule or order provides otherwise, sales,
18 purchases, exchanges, loans or extensions of credit,
19 investments, or guarantees involving one-half of one percent or
20 less of an insurer's admitted assets as of December 31 next
21 preceding shall not be deemed material for purposes of this



1 section. The definition of materiality provided in this
2 subsection shall not apply for purposes of the group capital
3 calculation or the liquidity stress test framework."

4 2. By amending subsection (1) to read:

5 "(1) (1) The ultimate controlling person of every insurer
6 subject to registration shall also file an annual
7 enterprise risk report. [~~The ultimate controlling~~
8 ~~person of a domestic insurance holding company system~~
9 ~~shall be exempt from this requirement.~~] The report
10 shall [~~identify~~], to the best of the ultimate
11 controlling person's knowledge and belief, identify
12 the material risks within the insurance holding
13 company system that could pose enterprise risk to the
14 insurer. The report shall be filed with the lead
15 state commissioner of the insurance holding company
16 system as determined by the procedures within the
17 Financial Analysis Handbook adopted by the National
18 Association of Insurance Commissioners.

19 (2) Except as otherwise provided in this paragraph, the
20 ultimate controlling person of every insurer subject
21 to registration shall concurrently file with the



1 registration an annual group capital calculation as
2 directed by the lead state commissioner. The report
3 shall be completed in accordance with the group
4 capital calculation instructions, which may permit the
5 lead state commissioner to allow a controlling person
6 that is not the ultimate controlling person to file
7 the group capital calculation. The report shall be
8 filed with the lead state commissioner of the
9 insurance holding company system as determined by the
10 commissioner in accordance with the procedures within
11 the financial analysis handbook adopted by the
12 National Association of Insurance Commissioners.
13 Insurance holding company systems described in
14 subparagraphs (A) through (D) are exempt from filing
15 the group capital calculation:
16 (A) An insurance holding company system that has only
17 one insurer within its holding company structure,
18 that only writes business and is only licensed in
19 its domestic state, and assumes no business from
20 any other insurer;



- 1 (B) An insurance holding company system that is
2 required to perform a group capital calculation
3 specified by the United States Federal Reserve
4 Board. The lead state commissioner shall request
5 the calculation from the Federal Reserve Board
6 under the terms of information sharing agreements
7 in effect. If the Federal Reserve Board cannot
8 share the calculation with the lead state
9 commissioner, the insurance holding company
10 system is not exempt from the group capital
11 calculation filing;
- 12 (C) An insurance holding company system whose non-
13 United States group-wide supervisor is located
14 within a reciprocal jurisdiction as defined in
15 section 431:4A-101 that recognizes the United
16 States state regulatory approach to group
17 supervision and group capital;
- 18 (D) An insurance holding company system:
19 (i) That provides information to the lead state
20 that meets the requirements for
21 accreditation under the National Association



1 of Insurance Commissioners financial
2 standards and accreditation program, either
3 directly or indirectly through the group-
4 wide supervisor, who has determined the
5 information is satisfactory to allow the
6 lead state to comply with the National
7 Association of Insurance Commissioners group
8 supervision approach, as detailed in the
9 Financial Analysis Handbook adopted by the
10 National Association of Insurance
11 Commissioners; and
12 (ii) Whose non-United States group-wide
13 supervisor that is not in a reciprocal
14 jurisdiction recognizes and accepts, as
15 specified by the commissioner in rules, the
16 group capital calculation as the world-wide
17 group capital assessment for United States
18 insurance groups that operate in that
19 jurisdiction;
20 (E) Notwithstanding subparagraphs (C) and (D), a lead
21 state commissioner shall require the group



1 capital calculation for United States operations
2 of any non-United States based insurance holding
3 company system where, after any necessary
4 consultation with other supervisors or officials,
5 it is deemed appropriate by the lead state
6 commissioner for prudential oversight and
7 solvency monitoring purposes or for ensuring the
8 competitiveness of the insurance marketplace;
9 (F) Notwithstanding the exemptions from filing the
10 group capital calculation stated in subparagraphs
11 (A) through (D), the lead state commissioner has
12 the discretion to exempt the ultimate controlling
13 person from filing the annual group capital
14 calculation or to accept a limited group capital
15 filing or report in accordance with criteria as
16 specified by the commissioner in rules; and
17 (G) If the lead state commissioner determines that an
18 insurance holding company system no longer meets
19 one or more of the requirements for an exemption
20 from filing the group capital calculation under
21 this paragraph, the insurance holding company



1 system shall file the group capital calculation
2 at the next annual filing date unless given an
3 extension by the lead state commissioner based on
4 reasonable grounds shown.

5 (3) The ultimate controlling person of every insurer
6 subject to registration and also scoped into the
7 liquidity stress test framework shall file the results
8 of a specific year's liquidity stress test. The
9 filing shall be made to the lead state insurance
10 commissioner of the insurance holding company system
11 as determined by the procedures within the Financial
12 Analysis Handbook adopted by the National Association
13 of Insurance Commissioners:

14 (A) The liquidity stress test framework includes
15 scope criteria applicable to a specific data
16 year. These scope criteria are reviewed at least
17 annually by the National Association of Insurance
18 Commissioners financial stability task force or
19 its successor. Any change to the liquidity
20 stress test framework or to the data year for
21 which the scope criteria are to be measured shall



1 be effective on January 1 of the year following
2 the calendar year when such changes are adopted
3 by order of the commissioner as provided in
4 section 431:11-102. Insurers meeting at least
5 one threshold of the scope criteria are
6 considered scoped into the liquidity stress test
7 framework for the specified data year unless the
8 lead state insurance commissioner, in
9 consultation with the National Association of
10 Insurance Commissioners financial stability task
11 force or its successor, determines the insurer
12 should not be scoped into the liquidity stress
13 test framework for that data year. Similarly,
14 insurers that do not trigger at least one
15 threshold of the scope criteria are considered
16 scoped out of the liquidity stress test framework
17 for the specified data year, unless the lead
18 state insurance commissioner, in consultation
19 with the National Association of Insurance
20 Commissioners financial stability task force or
21 its successor, determines the insurer should be



1 scoped into the liquidity stress test framework
2 for that data year.

3 Regulators wish to avoid having insurers
4 scoped in and out of the liquidity stress test
5 framework on a frequent basis. The lead state
6 insurance commissioner, in consultation with the
7 National Association of Insurance Commissioners
8 financial stability task force or its successor,
9 will assess this concern as part of the
10 determination for an insurer.

11 (B) The performance of, and filing of the results
12 from, a specific year's liquidity stress test
13 shall comply with the liquidity stress test
14 framework's instructions and reporting templates
15 for that year and any lead state insurance
16 commissioner determinations, in consultation with
17 the National Association of Insurance
18 Commissioners financial stability task force or
19 its successor, provided within the framework."

20 SECTION 3. Section 431:11-106, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:



- 1 "(a) (1) Transactions within an insurance holding company
2 system to which an insurer subject to registration is
3 a party shall be subject to the following standards:
- 4 (A) The terms shall be fair and reasonable;
- 5 (B) Agreements for cost sharing services and
6 management shall include provisions as required
7 by rule adopted by the commissioner;
- 8 (C) Charges or fees for services performed shall be
9 reasonable;
- 10 (D) Expenses incurred and payment received shall be
11 allocated to the insurer in conformity with
12 customary insurance accounting practices
13 consistently applied;
- 14 (E) The books, accounts, and records of each party to
15 all transactions shall be maintained so as to
16 clearly and accurately disclose the nature and
17 details of the transactions including the
18 accounting information necessary to support the
19 reasonableness of the charges or fees to the
20 respective parties; [and]



1 (F) The insurer's surplus as regards policyholders
2 following any dividends or distributions to
3 shareholder affiliates shall be reasonable in
4 relation to the insurer's outstanding liabilities
5 and adequate to its financial needs;

6 (G) If an insurer subject to this article is deemed
7 by the commissioner to be hazardous to its policy
8 holders, its creditors, or the general public
9 under section 431:15-103.5 or in a condition that
10 would be grounds for supervision, conservation,
11 or a delinquency proceeding, then the
12 commissioner may require the insurer to secure
13 and maintain either a deposit, held by the
14 commissioner, or a bond, as determined by the
15 insurer at the insurer's discretion, for the
16 protection of the insurer for the duration of the
17 contract or agreement, or the existence of the
18 condition for which the commissioner required the
19 deposit or the bond.

20 In determining whether a deposit or a bond
21 is required, the commissioner should consider



1 whether concerns exist with respect to the
2 affiliated person's ability to fulfill the
3 contract or agreement if the insurer were to be
4 put into liquidation. Once the insurer is deemed
5 to be in a hazardous financial condition or a
6 condition that would be grounds for supervision,
7 conservation, or a delinquency proceeding, and a
8 deposit or bond is necessary, the commissioner
9 has discretion to determine the amount of the
10 deposit or bond, not to exceed the value of the
11 contract or agreement in any one year, and
12 whether the deposit or bond should be required
13 for a single contract, multiple contracts, or a
14 contract only with a specific person;

15 (H) All records and data of the insurer held by an
16 affiliate shall be and shall remain the property
17 of the insurer, shall be subject to control of
18 the insurer, shall be identifiable, and shall be
19 segregated or readily capable of segregation, at
20 no additional cost to the insurer, from all other
21 persons' records and data. This shall include



1 all records and data that are otherwise the
2 property of the insurer, in whatever form
3 maintained, including but not limited to claims
4 and claim files, policyholder lists, application
5 files, litigation files, premium records, rate
6 books, underwriting manuals, personnel records,
7 financial records or similar records within the
8 possession, custody, or control of the affiliate.
9 At the request of the insurer, the affiliate
10 shall provide that a receiver can obtain a
11 complete set of all records of any type that
12 pertain to the insurer's business; obtain access
13 to the operating systems on which the data is
14 maintained; obtain the software that runs those
15 systems either through assumption of licensing
16 agreements or otherwise; and restrict the use of
17 the data by the affiliate if it is not operating
18 the insurer's business. The affiliate shall
19 provide a waiver of any landlord lien or other
20 encumbrance to give the insurer access to all



1 records and data in the event of the affiliate's
2 default under a lease or other agreement; and
3 (I) Premiums or other funds belonging to the insurer
4 that are collected by or held by an affiliate are
5 the exclusive property of the insurer and are
6 subject to the control of the insurer. Any right
7 of offset in the event an insurer is placed into
8 receivership shall be subject to article 15.
9 (2) The following transactions involving a domestic
10 insurer and any person in its insurance holding
11 company system, including amendments or modifications
12 of affiliate agreements previously filed pursuant to
13 this section, which are subject to any materiality
14 standards found in subparagraphs (A) through (G),
15 shall not be entered into unless the insurer has
16 notified the commissioner in writing of its intention
17 to enter into the transaction at least thirty days
18 prior to the transaction, or a shorter period as the
19 commissioner may permit, and the commissioner has not
20 disapproved the transaction within that period;
21 provided that the notice for amendments or



1 modifications shall include the reasons for the change
2 and the financial impact on the domestic insurer;
3 provided further that informal notice shall be
4 reported within thirty days after a termination of a
5 previously filed agreement to the commissioner for
6 determination of the type of filing required, if any:

7 (A) Sales, purchases, exchanges, loans, extensions of
8 credit, or investments; provided that the
9 transactions are equal to or exceed:

10 (i) With respect to nonlife insurers, the lesser
11 of three per cent of the insurer's admitted
12 assets or twenty-five per cent of surplus as
13 regards policyholders as of the December 31
14 next preceding; or

15 (ii) With respect to life insurers, three per
16 cent of the insurer's admitted assets as of
17 the December 31 next preceding;

18 (B) Loans or extensions of credit to any person who
19 is not an affiliate, where the insurer makes the
20 loans or extensions of credit with the agreement
21 or understanding that the proceeds of the



1 transactions, in whole or in substantial part,
2 are to be used to make loans or extensions of
3 credit to, to purchase assets of, or to make
4 investments in, any affiliate of the insurer
5 making the loans or extensions of credit;
6 provided that the transactions are equal to or
7 exceed:

8 (i) With respect to nonlife insurers, the lesser
9 of three per cent of the insurer's admitted
10 assets or twenty-five per cent of surplus as
11 regards policyholders as of the December 31
12 next preceding; or

13 (ii) With respect to life insurers, three per
14 cent of the insurer's admitted assets as of
15 the December 31 next preceding;

16 (C) Reinsurance agreements or modifications to
17 reinsurance agreements, including:

18 (i) All reinsurance pooling agreements; and

19 (ii) Agreements in which the reinsurance premium
20 or a change in the insurer's liabilities, or
21 the projected reinsurance premium or a



1 change in the insurer's liabilities in any
2 of the next three years, equals or exceeds
3 five per cent of the insurer's surplus as
4 regards policyholders, as of the December 31
5 next preceding, including those agreements
6 that may require as consideration the
7 transfer of assets from an insurer to a
8 nonaffiliate, if an agreement or
9 understanding exists between the insurer and
10 nonaffiliate that any portion of the assets
11 will be transferred to one or more
12 affiliates of the insurer;

13 (D) All management agreements, service contracts, tax
14 allocation agreements, guarantees, and all cost-
15 sharing arrangements;

16 (E) Guarantees when made by a domestic insurer;
17 provided that a guarantee that is quantifiable as
18 to amount shall not be subject to the notice
19 requirements of this paragraph unless it exceeds
20 the lesser of one-half of one per cent of the
21 insurer's admitted assets or ten per cent of



1 surplus as regards policyholders as of the
2 December 31 next preceding. All guarantees that
3 are not quantifiable as to amount are subject to
4 the notice requirements of this paragraph;

5 (F) Direct or indirect acquisitions or investments in
6 a person that controls the insurer or in an
7 affiliate of the insurer in an amount that,
8 together with its present holdings in such
9 investments, exceeds two and one-half per cent of
10 the insurer's surplus to policyholders. Direct
11 or indirect acquisitions or investments in
12 subsidiaries acquired pursuant to section 431:11-
13 103, or in nonsubsidiary insurance affiliates
14 that are subject to this article, are exempt from
15 this requirement; and

16 (G) Any material transactions, specified by rule,
17 that the commissioner determines may adversely
18 affect the interests of the insurer's
19 policyholders.

20 Nothing in this paragraph shall be deemed to authorize
21 or permit any transactions that, in the case of an



1 insurer not a member of the same insurance holding
2 company system, would be otherwise contrary to law;

3 (3) A domestic insurer may not enter into transactions
4 that are part of a plan or series of like transactions
5 with persons within the insurance holding company
6 system if the purpose of those separate transactions
7 is to avoid the statutory threshold amount and thus
8 avoid the review that would otherwise occur; provided
9 that the commissioner determines that the separate
10 transactions were entered into over any twelve-month
11 period for that purpose, the commissioner may exercise
12 the commissioner's authority under section 431:11-111;

13 (4) The commissioner, in reviewing transactions pursuant
14 to paragraph (2), shall consider whether the
15 transactions comply with the standards set forth in
16 paragraph (1) and whether the transactions may
17 adversely affect the interests of policyholders; ~~and~~

18 (5) The commissioner shall be notified within thirty days
19 of any investment of the domestic insurer in any one
20 corporation if the total investment in the corporation
21 by the insurance holding company system exceeds ten



1 per cent of the corporation's voting securities[-];

2 and

3 (6) (A) Any affiliate that is party to an agreement or
4 contract with a domestic insurer that is subject
5 to paragraph (2) (D) shall be subject to the
6 jurisdiction of any supervision, seizure,
7 conservatorship, or receivership proceedings
8 against the insurer and to the authority of any
9 supervisor, conservator, rehabilitator, or
10 liquidator for the insurer appointed pursuant to
11 article 15 for the purpose of interpreting,
12 enforcing, and overseeing the affiliate's
13 obligations under the agreement or contract to
14 perform services for the insurer that:

15 (i) Are an integral part of the insurer's
16 operations, including but not limited to
17 management, administrative, accounting, data
18 processing, marketing, underwriting, claims
19 handling, investment, or any other similar
20 functions; or



1 (ii) Are essential to the insurer's ability to
2 fulfill its obligations under insurance
3 policies; and

4 (B) The commissioner may require that an agreement or
5 contract pursuant to paragraph (2)(D) for the
6 provision of services described in subparagraph
7 (A) specify that the affiliate consents to the
8 jurisdiction as set forth in this paragraph."

9 SECTION 4. Section 431:11-108, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§431:11-108 Confidential treatment.** (a) Documents,
12 materials, or other information in the possession or control of
13 the insurance division that are obtained by or disclosed to the
14 commissioner or any other person in the course of an examination
15 or investigation made pursuant to section 431:11-107 and all
16 information reported or provided to the insurance division
17 pursuant to sections 431:11-104(b)(12) and (13), 431:11-105,
18 431:11-106, and 431:11-107.7, shall be recognized by the State
19 as being proprietary and to contain trade secrets, shall be
20 confidential by law and privileged, shall not be disclosable
21 under chapter 92F, shall not be subject to subpoena, and shall



1 not be subject to discovery or admissible in evidence in any
2 private civil action. The commissioner may use the documents,
3 materials, or other information in the furtherance of any
4 regulatory or legal action brought as part of the commissioner's
5 official duties. The commissioner shall not otherwise make the
6 documents, materials, or other information public without prior
7 written consent of the insurer to which it pertains unless the
8 commissioner, after giving the insurer and its affiliates who
9 would be affected thereby notice and opportunity to be heard,
10 determines that the interest of the policyholders, shareholders,
11 or the public will be served by the publication thereof, in
12 which event the commissioner may publish all or any part in such
13 manner as may be deemed appropriate.

14 (1) For purposes of the information reported and provided
15 to the commissioner pursuant to section 431:11-
16 105(1)(2), the commissioner shall maintain the
17 confidentiality of the group capital calculation and
18 group capital ratio produced within the calculation
19 and any group capital information received from an
20 insurance holding company supervised by the Federal



1 Reserve Board or any United States group wide
2 supervisor.

3 (2) For purposes of the information reported and provided
4 to the insurance division pursuant to section 431:11-
5 105(1)(3), the commissioner shall maintain the
6 confidentiality of the liquidity stress test results
7 and supporting disclosures and any liquidity stress
8 test information received from an insurance holding
9 company supervised by the Federal Reserve Board and
10 non-United States group wide supervisors.

11 (b) Neither the commissioner nor any person who received
12 documents, materials, or other information while acting under
13 the authority of the commissioner or with whom the documents,
14 materials, or other information are shared pursuant to this
15 article shall be permitted or required to testify in any private
16 civil action concerning any confidential documents, materials,
17 or information subject to subsection (a).

18 (c) To assist in the performance of the commissioner's
19 duties, the commissioner:

20 (1) May share documents, materials, or other information,
21 including the confidential and privileged documents,



1 materials, or information subject to subsection (a),
2 including proprietary and trade secret documents and
3 materials, with other state, federal, and
4 international regulatory agencies, with the National
5 Association of Insurance Commissioners [~~and its~~
6 ~~affiliates and subsidiaries, and~~], with any third-
7 party consultants designated by the commissioner, and
8 with state, federal, and international law enforcement
9 authorities, including members of any supervisory
10 college described in section 431:11-107.5; provided
11 that the recipient agrees in writing to maintain the
12 confidentiality and privileged status of the document,
13 material, or other information, and has verified in
14 writing the legal authority to maintain
15 confidentiality;

16 (2) Notwithstanding paragraph (1) to the contrary, may
17 only share confidential and privileged documents,
18 material, or information reported pursuant to section
19 431:11-105(1) with commissioners of states having
20 statutes or regulations substantially similar to



1 subsection (a) and who have agreed in writing not to
2 disclose such information;

3 (3) May receive documents, materials, or information,
4 including otherwise confidential and privileged
5 documents, materials, or information, including
6 propriety and trade-secret information, from the
7 National Association of Insurance Commissioners and
8 its affiliates and subsidiaries and from regulatory
9 and law enforcement officials of other foreign or
10 domestic jurisdictions, and shall maintain as
11 confidential or privileged any document, material, or
12 information received with notice or the understanding
13 that it is confidential or privileged under the laws
14 of the jurisdiction that is the source of the
15 document, material, or information; and

16 (4) Shall enter into written agreements with the National
17 Association of Insurance Commissioner and any third-
18 party consultant designated by the commissioner
19 governing sharing and use of information provided
20 pursuant to this article and consistent with this
21 subsection that shall:



- 1 (A) Specify procedures and protocols regarding the
2 confidentiality and security of information
3 shared with the National Association of Insurance
4 Commissioners [~~and its affiliates and~~
5 ~~subsidiaries~~] or a third-party consultant
6 designated by the commissioner pursuant to this
7 article, including procedures and protocols for
8 sharing by the National Association of Insurance
9 Commissioners with other state, federal, or
10 international regulators[+]. The agreement shall
11 provide that the recipient of the documents,
12 materials, or other information agrees in writing
13 to maintain the confidentiality and privileged
14 status of the documents, materials, or other
15 information and has verified in writing the legal
16 authority to maintain such confidentiality;
- 17 (B) Specify that ownership of information shared with
18 the National Association of Insurance
19 Commissioners [~~and its affiliates and~~
20 ~~subsidiaries~~] or a third-party consultant, as
21 designated by the commissioner, pursuant to this



1 article remains with [~~and for use by~~] the
2 commissioner and the National Association of
3 Insurance Commissioners or the third-party
4 consultant and is subject to the direction of the
5 commissioner;

6 (C) Excluding documents, material, or information
7 reported pursuant to section 431:11-105(1)(3),
8 prohibit the National Association of Insurance
9 Commissioners or a third-party consultant
10 designated by the commissioner from storing the
11 information shared pursuant to this article in a
12 permanent database after the underlying analysis
13 is completed;

14 [~~(C)~~] (D) Require that prompt notice be given to an
15 insurer whose confidential information is in the
16 possession of the National Association of
17 Insurance Commissioners or a third-party
18 consultant designated by the commissioner
19 pursuant to this article and require that the
20 insurer is subject to a request or subpoena from
21 the National Association of Insurance



1 Commissioners or a third-party consultant
2 designated by the commissioner for disclosure or
3 production; ~~and]~~
4 [~~(D)~~] (E) Require the National Association of
5 Insurance Commissioners ~~[and its affiliates and~~
6 ~~subsidiaries]~~ or a third-party consultant,
7 designated by the commissioner, to consent to
8 intervention by an insurer in any judicial or
9 administrative action in which the National
10 Association of Insurance Commissioners ~~[and its~~
11 ~~affiliates and subsidiaries]~~ or the third-party
12 consultant may be required to disclose
13 confidential information about the insurer shared
14 ~~[pursuant to this article.]~~ with the National
15 Association of Insurance Commissioners or the
16 third-party consultant; and
17 (F) For documents, material, or information reporting
18 pursuant to section 431:11-105(1)(3), in the case
19 of an agreement involving a third-party
20 consultant designated by the commissioner,



1 provide for notification of the identity of the
2 consultant to the applicable insurers.

3 (d) The sharing of information by the commissioner
4 pursuant to this article shall not constitute a delegation of
5 regulatory authority or rulemaking, and the commissioner shall
6 be solely responsible for the administration, execution, and
7 enforcement of this article.

8 (e) No waiver of any applicable privilege or claim of
9 confidentiality in the documents, materials, or information
10 shall occur as a result of disclosure to the commissioner under
11 this section or as a result of sharing as authorized in
12 subsection (c).

13 (f) Documents, materials, or information in the possession
14 or control of the National Association of Insurance
15 Commissioners or a third-party consultant designated by the
16 commissioner pursuant to this article shall be confidential by
17 law and privileged, shall not be disclosable under chapter 92F,
18 shall not be subject to subpoena, and shall not be subject to
19 discovery or admissible in evidence in any private civil action.

20 (g) The group capital calculation and resulting group
21 capital ratio required under section 431:11-105(1)(2) and the



1 liquidity stress test along with its results and supporting
2 disclosures required under section 431:11-105(1)(3) are
3 regulatory tools for assessing group risks and capital adequacy
4 and group liquidity risks, respectively, and are not intended as
5 a means to rank insurers or insurance holding company systems
6 generally. Therefore, except as otherwise may be required under
7 this article, the making, publishing, disseminating,
8 circulating, or placing before the public, or causing directly
9 or indirectly to be made, published, disseminated, circulated,
10 or placed before the public in a newspaper, magazine, or other
11 publication, or in the form of a notice, circular, pamphlet,
12 letter, or poster, or over any radio or television station or
13 any electronic means of communication available to the public,
14 or in any other way as an advertisement, announcement, or
15 statement containing a representation or statement with regard
16 to the group capital calculation, group capital ratio, the
17 liquidity stress test results, or supporting disclosures for the
18 liquidity stress test of any insurer or any insurer group, or of
19 any component derived in the calculation by any insurer, broker,
20 or other person engaged in any manner in the insurance business
21 would be misleading and is therefore prohibited; provided that



1 if any materially false statement with respect to the group
2 capital calculation, resulting group capital ratio, an
3 inappropriate comparison of any amount to an insurer's or
4 insurance group's group capital calculation or resulting group
5 capital ratio, liquidity stress test result, supporting
6 disclosures for the liquidity stress test, or an inappropriate
7 comparison of any amount to an insurer's or insurance group's
8 liquidity stress test result or supporting disclosures is
9 published in any written publication and the insurer is able to
10 demonstrate to the commissioner with substantial proof the
11 falsity of such statement or the inappropriateness, as the case
12 may be, then the insurer may publish announcements in a written
13 publication if the sole purpose of the announcement is to rebut
14 the materially false statement."

15 SECTION 5. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 6. This Act shall take effect on July 1, 3000.



Report Title:

Insurance Code; Insurance Holding Company System

Description:

Amends various sections of article 11 of the Insurance Code to adopt revisions to the National Association of Insurance Commissioners Model #440, Insurance Holding Company System Regulatory Act. Effective 7/1/3000. (HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

