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SENATE BILL DRS35027-NE-8

Short Title: Maintain NAIC Accreditation of DOI.-AB (Public)

Sponsors: Senators Johnson, Britt, and Settle (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MAINTAIN NAIC ACCREDITATION OF THE DEPARTMENT OF
3 INSURANCE BY IMPLEMENTING GROUP CAPITAL CALCULATION AND
4 LIQUIDITY STRESS TEST REQUIREMENTS AND TO MAKE VARIOUS
5 CONFORMING CHANGES, AS RECOMMENDED BY THE DEPARTMENT OF
6 INSURANCE.

7 The General Assembly of North Carolina enacts:

8
9 **PART I. IMPLEMENT GROUP CAPITAL CALCULATION AND LIQUIDITY STRESS**
10 **TEST REQUIREMENTS FOR INSURANCE HOLDING COMPANY SYSTEMS**

11 **SECTION 1.** Article 19 of Chapter 58 of the General Statutes is amended by adding
12 the following new sections to read:

13 **"§ 58-19-26. Group capital calculation.**

14 (a) Reporting Requirement. – The ultimate controlling person of every insurer subject to
15 registration pursuant to G.S. 58-19-25 shall concurrently file with the registration an annual
16 group capital calculation report. The report shall be filed with the lead state commissioner.

17 (b) Exemptions. – The ultimate controlling person of any of the following is exempt from
18 the filing requirement of subsection (a) of this section:

19 (1) An insurance holding company system that (i) has only one insurer within its
20 holding company structure, (ii) only writes insurance business, (iii) is only
21 licensed in its state of domicile, and (iv) assumes no business from any other
22 insurer.

23 (2) An insurance holding company system that is required to perform a group
24 capital calculation specified by the United States Federal Reserve Board.
25 When this exemption applies, the lead state commissioner shall request the
26 calculation from the United States Federal Reserve Board. If the United States
27 Federal Reserve Board cannot share the calculation with the lead state
28 commissioner under the terms of any information sharing agreements in
29 effect, then the insurance holding company system is not exempt from the
30 group capital calculation filing.

31 (3) An insurance holding company system whose non-United States group-wide
32 supervisor is located within a reciprocal jurisdiction that recognizes the United
33 States state regulatory approach to group supervision and group capital.

34 (4) An insurance holding company system that meets both of the following
35 requirements:



- 1 a. The insurance holding company system provides information to the
2 lead state commissioner that meets the requirements for accreditation
3 under the NAIC financial standards and accreditation program. The
4 insurance holding company may provide this information either
5 directly or indirectly through its group-wide supervisor. If provided
6 indirectly through a group-wide supervisor, the supervisor is
7 responsible for determining whether the information provided is
8 sufficient to permit the lead state commissioner to comply with the
9 NAIC group supervision approach, as detailed in the NAIC Financial
10 Analysis Handbook.
- 11 b. The insurance holding company system's non-United States
12 group-wide supervisor is not in a reciprocal jurisdiction but
13 nonetheless recognizes the group capital calculation as the worldwide
14 group capital assessment for United States insurance groups who
15 operate in that jurisdiction.
- 16 (c) Recognition of Group Capital Calculation. – For purposes of subdivision (b)(4) of
17 this section, a non-United States jurisdiction recognizes the group capital calculation if it satisfies
18 any of the following criteria:
- 19 (1) A competent regulatory authority in the jurisdiction affirms that insurers and
20 insurance groups whose lead state is accredited by the NAIC under the NAIC
21 accreditation program shall be subject only to worldwide prudential insurance
22 group supervision, including worldwide group governance, solvency and
23 capital, and reporting, as applicable, by that jurisdiction's lead state
24 commissioner and will not be subject to group supervision, including
25 worldwide group governance, solvency and capital, and reporting, at the level
26 of the worldwide parent undertaking of the insurance or reinsurance group by
27 the non-United States jurisdiction.
- 28 (2) A competent regulatory authority in the jurisdiction affirms that information
29 regarding insurers and their parent, subsidiary, or affiliated entities, if
30 applicable, shall be provided to the lead state commissioner in accordance
31 with an information sharing agreement in the form of a memorandum of
32 understanding or similar document. Acceptable information sharing
33 agreements include the International Association of Insurance Supervisors
34 Multilateral Memorandum of Understanding or other multilateral memoranda
35 of understanding coordinated by the NAIC. The jurisdiction does not satisfy
36 this criteria if the lead state commissioner determines, in consultation with the
37 NAIC, that the requirements of the information sharing agreements are no
38 longer in force.
- 39 (3) If no United States insurance groups operate in the non-United States
40 jurisdiction, that non-United States jurisdiction notifies the lead state
41 commissioner and the International Association of Insurance Supervisors in
42 writing that the jurisdiction considers the group capital calculation an
43 acceptable international capital standard.
- 44 (d) Limitation of Exemptions. – Notwithstanding subsection (b) of this section, the lead
45 state commissioner shall require filing of the group capital calculation for United States
46 operations of any non-United States based insurance holding company system if the lead state
47 commissioner determines that the filing is required for (i) prudential oversight and solvency
48 monitoring purposes or (ii) ensuring the competitiveness of the insurance marketplace.
- 49 (e) Consideration and Correction of NAIC Materials. – The lead state commissioner shall
50 consider any relevant lists, reports, and recommendations published by the NAIC in determining
51 whether the exceptions of subdivision (b)(4) of this section apply to an insurer. If the lead state

1 commissioner's determination differs from relevant materials published by the NAIC, the lead
2 state commissioner shall provide the NAIC with written justification for the difference supported
3 by documentation. If published NAIC materials indicate that a non-United States jurisdiction
4 recognizes the group capital calculation and the lead state commissioner determines that the
5 jurisdiction no longer meets the requirements of subsection (c) of this section, the lead state
6 commissioner may recommend a correction of the materials to the NAIC.

7 (f) Discretionary Exemptions. – The lead state commissioner may either (i) exempt the
8 ultimate controlling person of an insurance holding company system from the filing requirement
9 of subsection (a) of this section or (ii) authorize the ultimate controlling person of an insurance
10 holding company to file a limited group capital filing in lieu of the filing requirement of
11 subsection (a) of this section if all of the following apply:

12 (1) The insurance holding company system has annual direct written and
13 unaffiliated assumed premium, including international direct and assumed
14 premium, but excluding premiums reinsured with the Federal Crop Insurance
15 Corporation and Federal Flood Program, of less than one billion dollars
16 (\$1,000,000,000).

17 (2) The insurance holding company system does not include insurers within its
18 holding company structure that are domiciled outside of the United States or
19 one of its territories.

20 (3) The insurance holding company system does not include banking, depository,
21 or other financial entity that is subject to an identified regulatory capital
22 framework within its holding company structure.

23 (4) The insurance holding company system attests that there are no material
24 changes in transactions between insurers and non-insurers in the group that
25 have occurred since the last filing of an annual group calculation report, if any.

26 (5) The non-insurers within the insurance holding company system do not pose a
27 material financial risk to the insurer's ability to honor policyholder
28 obligations.

29 (g) Resumption of Filings. – If the lead state commissioner determines that an insurance
30 holding company system exempted from the filing requirements of subsection (a) of this section
31 no longer meets the requirements for an exemption, the insurance holding company system shall
32 file the group capital calculation at the next annual filing date unless given an extension by the
33 lead state commissioner based on reasonable grounds shown. If the lead state commissioner,
34 pursuant to subsection (f) of this section, either grants a discretionary exemption or authorizes a
35 limited group capital filing, the lead state commissioner may require the ultimate controlling
36 person of that insurance holding company system to file an annual group calculation at any time
37 if all of the following apply:

38 (1) Any insurer within the insurance holding company system is in a risk-based
39 capital action level event as set forth in Article 12 of this Chapter or a similar
40 standard for a non-United States insurer.

41 (2) Any insurer within the insurance holding company system meets one or more
42 of the standards of an insurer deemed to be in hazardous financial condition
43 pursuant to the criteria provided in G.S. 58-30-60.

44 (3) Any insurer within the insurance holding company system otherwise exhibits
45 qualities of a troubled insurer as determined by the lead state commissioner
46 based on unique circumstances, including the type and volume of business
47 written, ownership and organizational structure, federal agency requests, and
48 international supervisor requests.

49 **"§ 58-19-27. Liquidity stress test.**

50 (a) Participation and Reporting Requirement. – The ultimate controlling person of every
51 insurer subject to registration pursuant to G.S. 58-19-25 shall be included in the NAIC liquidity

1 stress test framework and file a report with the lead state commissioner detailing the results of a
2 specific year's liquidity stress test if either of the following applies:

3 (1) The insurer meets the scope criteria of that data year's NAIC liquidity stress
4 test framework.

5 (2) The insurer did not meet the scope criteria of that data year's liquidity stress
6 test framework, but the lead state commissioner, in consultation with the
7 NAIC Financial Stability Task Force or its successor, nonetheless determines
8 the insurer should be included in the NAIC liquidity stress test framework for
9 that data year. In making this determination, the lead state commissioner shall
10 attempt to avoid the frequent inclusion or exclusion of insurers.

11 (b) The performance of, and filing of the results from, a specific year's liquidity stress
12 test shall comply with (i) the NAIC liquidity stress test framework's instructions and reporting
13 templates for that year and (ii) all lead state commissioners' directives issued in consultation with
14 the NAIC Financial Stability Task Force or its successor.

15 (c) Exemptions. – The lead state commissioner may, in consultation with the NAIC
16 Financial Stability Task Force or its successor, exempt an ultimate controlling person from the
17 reporting requirements of subsection (a) of this section. The lead state commissioner shall
18 consider the intent of regulators to avoid having insurers scoped in and out of the NAIC liquidity
19 stress test framework on a frequent basis when making this determination.

20 **"§ 58-19-28. Dissemination prohibited.**

21 (a) Unless otherwise provided by law, the making, publishing, disseminating, circulating,
22 or placing before the public, or causing directly or indirectly to be made, published, disseminated,
23 circulated, or placed before the public in a newspaper, magazine, or other publication, or in the
24 form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station or
25 any electronic means of communication available to the public, or in any other way as an
26 advertisement, announcement, or statement containing a representation or statement with regard
27 to the group capital calculation, group capital ratio, the liquidity stress test results, or supporting
28 disclosures for the liquidity stress test of any insurer or any insurer group, or of any component
29 derived in the calculation by any insurer, broker, or other person engaged in any manner in the
30 insurance business is prohibited.

31 (b) Notwithstanding subsection (a) of this section, if any materially false statement with
32 respect to the group capital calculation, resulting group capital ratio, an inappropriate comparison
33 of any amount to an insurer's or insurance group's group capital calculation or resulting group
34 capital ratio, liquidity stress test result, supporting disclosures for the liquidity stress test, or an
35 inappropriate comparison of any amount to an insurer's or insurance group's liquidity stress test
36 result, or supporting disclosures is published in any written publication and the insurer is able to
37 demonstrate to the Commissioner with substantial proof the falsity or inappropriateness of the
38 statement, then the insurer may publish announcements in a written publication if the sole
39 purpose of the announcement is to rebut the materially false or inappropriate statement."

40
41 **PART II. CONFORMING CHANGES**

42 **SECTION 2.(a)** G.S. 58-19-5 reads as rewritten:

43 **"§ 58-19-5. Definitions.**

44 As used in this Article, unless the context requires otherwise, the following terms have the
45 following meanings:

46 ...
47 **(10a)** Group capital calculation. – A report, completed in accordance with the group
48 capital calculation instructions as adopted and amended by the NAIC, used to
49 evaluate the capital adequacy of insurance holding company systems that
50 includes information on the sources of capital within the system, where that
51 capital is located, and sources of risk.

1 ~~(10a)~~(10b) Group-wide supervisor. – The regulatory official authorized to engage in
 2 conducting and coordinating group-wide supervision activities who is
 3 determined or acknowledged by the Commissioner under G.S. 58-19-38 to
 4 have sufficient significant contacts with the internationally active insurance
 5 group.

6 ...

7 (12b) Lead state commissioner. – The person responsible for regulating the
 8 insurance holding company system as determined by the Commissioner in
 9 accordance with the procedures within the Financial Analysis Handbook
 10 adopted by the NAIC.

11 (12c) Limited group capital filing. – A simplified version of the group capital
 12 calculation, completed in accordance with procedures adopted by the NAIC,
 13 where an insurance holding company system only provides a limited amount
 14 of data, allowing them to avoid the filing of a full group capital calculation.

15 (12d) Liquidity stress test. – A process simulating extreme market conditions to
 16 assess an entity's ability to maintain sufficient liquidity in response to adverse
 17 events.

18 (12e) NAIC. – The National Association of Insurance Commissioners.

19 (12f) NAIC liquidity stress test framework. – A publication, adopted and amended
 20 by the NAIC in accordance with procedures adopted by the NAIC, which
 21 includes a history of the NAIC's development of regulatory liquidity stress
 22 testing, the scope criteria applicable for a specific data year, and the liquidity
 23 stress test instructions and reporting templates for a specific data year.

24 ...

25 (13a) Reciprocal jurisdiction. – As defined in G.S. 58-7-21(b)(4b).

26 (13b) Scope criteria. – Designated exposure bases, detailed in the NAIC liquidity
 27 stress test framework along with minimum magnitudes thereof for the
 28 specified data year, used to establish a preliminary list of insurers included in
 29 the NAIC liquidity stress test framework for that data year.

30"

31 SECTION 2.(b) G.S. 58-19-15 reads as rewritten:

32 "**§ 58-19-15. Acquisition of control of or merger with domestic insurer.**

33 ...

34 (b) The statement to be filed with the Commissioner under subsection (a) of this section
 35 shall be furnished on a Form A as prescribed by the Commissioner, made under oath or
 36 affirmation, and shall contain the following information:

37 ...

38 (11a) An agreement by the person required to file the statement referred to in
 39 subsection (a) of this section that it will provide the annual report, as specified
 40 in G.S. 58-19-25, G.S. 58-19-25(l), for so long as control exists.

41"

42 SECTION 2.(c) G.S. 58-19-25 reads as rewritten:

43 "**§ 58-19-25. Registration of ~~insurers~~insurers; disclaimer of affiliation; enterprise risk**
 44 **filings.**

45 ...

46 (c) No information need be disclosed on the registration statement filed pursuant to
 47 subsection (b) of this section if such information is not ~~material for the purposes of this section.~~
 48 ~~Unless the Commissioner by rule or order provides otherwise, all~~material. For purposes of this
 49 section, all sales, purchases, exchanges, loans or extensions of credit, investments, or guarantees
 50 involving one-half of one percent (~~1//s2%~~)-(0.5%) or less of an insurer's admitted assets as of
 51 the preceding December 31 are not ~~material for the purposes of this section.~~material, unless the

1 Commissioner by rule or order provides otherwise. This subsection does not apply to the
 2 reporting requirements of G.S. 58-19-26 and G.S. 58-19-27.

3 ...

4 (l) Effective January 1, 2016, the ultimate controlling person of every insurer subject to
 5 registration shall also file an annual enterprise risk report on Form F as prescribed by the
 6 Commissioner. The report shall, to the best of the ultimate controlling person's knowledge and
 7 belief, identify the material risks within the insurance holding company system that could pose
 8 enterprise risk to the insurer. The report shall be filed with the lead state ~~commissioner of the~~
 9 ~~insurance holding company system as determined by the procedures within the Financial~~
 10 ~~Analysis Handbook adopted by the NAIC commissioner."~~

11 **SECTION 2.(d)** G.S. 58-19-40 reads as rewritten:

12 **"§ 58-19-40. Confidential treatment.**

13 (a) Documents, materials, or other information in the possession or control of the
 14 Department that are obtained by or disclosed to the Commissioner or any other person in the
 15 course of an examination or investigation made pursuant to G.S. 58-19-35, and all information
 16 reported or provided to the Department pursuant to subdivisions (11a) and (11b) of
 17 G.S. 58-19-15(b), G.S. 58-19-25, G.S. 58-19-30 and G.S. 58-19-38 are recognized by this State
 18 as being proprietary and to contain trade secrets, and shall be confidential by law and privileged,
 19 shall not be considered a public record under either G.S. 58-2-100 or Chapter 132 of the General
 20 Statutes, shall not be subject to subpoena, and shall not be subject to discovery or admissible in
 21 evidence in any private civil action. However, the Commissioner is authorized to use the
 22 documents, materials, or other information in the furtherance of any regulatory or legal action
 23 brought as a part of the Commissioner's official duties. The Commissioner shall not otherwise
 24 make the documents, materials, or other information public without the prior written consent of
 25 the insurer to which it pertains unless the Commissioner, after giving the insurer and its affiliates
 26 who would be affected thereby notice and opportunity to be heard, determines that the interest of
 27 policyholders, shareholders, or the public will be served by the publication thereof, in which
 28 event the Commissioner may publish all or any part of the information in such manner as may
 29 be deemed appropriate.

30 (a1) With respect to information provided to the Department pursuant to G.S. 58-19-26
 31 and G.S. 58-19-27, the Commissioner shall:

32 (1) Maintain the confidentiality of the group capital calculation and group capital
 33 ratio produced within the calculation and any group capital information
 34 received from an insurance holding company system supervised by the
 35 Federal Reserve Board or any United States group-wide supervisor.

36 (2) Maintain the confidentiality of the liquidity stress test results and supporting
 37 disclosures and any liquidity stress test information received from an
 38 insurance holding company system supervised by the Federal Reserve Board
 39 and non-United States group-wide supervisors.

40 ...

41 (c) In order to assist in the performance of the duties imposed by this Article, the
 42 Commissioner:

43 (1) May share documents, materials, or other information, including the
 44 confidential and privileged documents, materials, or information subject to
 45 subsection (a) of this section, including proprietary and trade secret documents
 46 and materials, with other all of the following:

47 a. Other state, federal, and international regulatory agencies, with the
 48 NAIC and its affiliates and subsidiaries, and with state, agencies.

49 b. The NAIC.

50 c. Any third-party consultants designated by the Commissioner.

- 1 d. State, federal, and international law enforcement authorities, including
2 members of any supervisory college described in G.S. 58-19-37,
3 provided that the recipient agrees in writing to maintain the
4 confidentiality and privileged status of the document, material, or
5 other information and has verified in writing the legal authority to
6 maintain confidentiality.
- 7 (2) Notwithstanding subdivision (1) of this subsection, may only share
8 confidential and privileged documents, material, or information reported
9 pursuant to ~~G.S. 58-19-25~~ G.S. 58-19-25(l) with Commissioners of states
10 having statutes or regulations substantially similar to subsection (a) of this
11 section and who have agreed in writing not to disclose such information.
- 12 (3) May receive documents, materials, or information, including otherwise
13 confidential and privileged documents, materials, or ~~information~~ information,
14 including proprietary and trade-secret information, from the NAIC and its
15 affiliates and subsidiaries and from regulatory and law enforcement officials
16 of other foreign or domestic jurisdictions, and shall maintain as confidential
17 or privileged any document, material, or information received with notice or
18 the understanding that it is confidential or privileged under the laws of the
19 jurisdiction that is the source of the document, material, or information.
- 20 (4) Shall enter into written agreements with the NAIC and any third-party
21 consultant designated by the Commissioner governing sharing and use of
22 information provided pursuant to this Article consistent with this subsection
23 that ~~shall~~ shall do all of the following:
- 24 a. Require a recipient to maintain the confidentiality and privileged
25 status of any documents, materials, or information. Specify procedures
26 and protocols regarding the confidentiality and security of information
27 shared with the NAIC ~~and its affiliates and subsidiaries~~ or a third-party
28 consultant designated by the Commissioner pursuant to this Article,
29 including procedures and protocols for sharing by the NAIC with other
30 state, federal, or international ~~regulators;~~ regulators. The agreement
31 shall require a recipient to verify in writing that the recipient has
32 reviewed the legal authority supporting any confidentiality or
33 privilege.
- 34 b. Specify that ownership of information shared with the NAIC ~~and its~~
35 ~~affiliates and subsidiaries~~ or a third-party consultant pursuant to this
36 Article remains with the Commissioner, and the NAIC's use of the
37 information by the NAIC or third-party consultant designated by the
38 Commissioner is subject to the direction of the
39 ~~Commissioner;~~ Commissioner.
- 40 c. Prohibit the NAIC or third-party consultant designated by the
41 Commissioner from storing the information shared pursuant to this
42 section in a permanent database after the underlying analysis is
43 completed. This sub-subdivision does not apply to documents,
44 material, or information reported pursuant to G.S. 58-19-27.
- 45 e.d. Require prompt notice to be given to an insurer whose confidential
46 information in the possession of the NAIC or a third-party consultant
47 designated by the Commissioner pursuant to this Article is subject to
48 a request or subpoena to the NAIC for disclosure or ~~production;~~
49 and production.
- 50 d.e. Require the NAIC ~~and its affiliates and subsidiaries~~ or a third-party
51 consultant designated by the Commissioner to consent to intervention

1 by an insurer in any judicial or administrative action in which the
2 NAIC ~~and its affiliates and subsidiaries~~ or a third-party consultant
3 designated by the Commissioner may be required to disclose
4 confidential information about the insurer shared with the NAIC ~~and~~
5 ~~its affiliates and subsidiaries~~ or a third-party consultant designated by
6 the Commissioner pursuant to Article 19 of this Chapter.

7 f. Require the Commissioner to notify an insurer when documents,
8 materials, or information confidential or privileged to that insurer are
9 shared with a third-party consultant. The notification shall include the
10 identity of the third-party consultant. This sub-subdivision only
11 applies to documents, materials, or information shared pursuant to
12 G.S. 58-19-27.

13 ...

14 (f) Documents, materials, or other information in the possession or control of the NAIC
15 or a third-party consultant designated by the Commissioner pursuant to a requirement of this
16 Article shall be confidential by law and privileged, shall not be considered a public record under
17 G.S. 58-2-100 or Chapter 132 of the General Statutes, shall not be subject to subpoena, and shall
18 not be subject to discovery or admissible in evidence in any private civil action."
19

20 **PART III. EFFECTIVE DATE**

21 **SECTION 3.** This act becomes effective January 1, 2026.