

HOUSE BILL 252

C4

(PRE-FILED)

4lr0329

CF 4lr0330

By: **Chair, Economic Matters Committee (By Request – Departmental – Maryland Insurance Administration)**

Requested: September 15, 2023

Introduced and read first time: January 10, 2024

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Insurance – Holding Companies – Group Capital Calculation and Liquidity**
3 **Stress Test**

4 FOR the purpose of requiring certain controlling persons of certain insurers in an insurance
5 holding company system to file an annual group calculation as directed by the lead
6 state commissioner of the insurance group; requiring certain controlling persons of
7 certain insurers in an insurance holding company system to file the results of a
8 liquidity stress test for certain years; providing for the confidentiality of certain
9 information; and generally relating to insurance company regulation.

10 BY repealing and reenacting, with amendments,
11 Article – Insurance
12 Section 7–101, 7–106, and 7–603
13 Annotated Code of Maryland
14 (2017 Replacement Volume and 2023 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
16 That the Laws of Maryland read as follows:

17 **Article – Insurance**

18 7–101.

19 (a) In this title the following words have the meanings indicated.

20 (b) “Affiliate” means a person that directly or indirectly, through one or more
21 intermediaries, controls, is controlled by, or is under common control with another person.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(c) “Control”, “controlling”, “controlled by”, or “under common control with” means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person, through ownership of voting securities or of securities convertible into voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, whether or not the power is exercised or sought to be exercised unless the power is the result of an official position with or corporate office held by the person.

(d) (1) “Enterprise risk” means any activity, circumstance, event, or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect on the financial condition or liquidity of the insurer or its insurance holding company system as a whole.

(2) “Enterprise risk” includes anything that would:

(i) cause the insurer’s risk based capital to fall to or below a company action level under Title 4, Subtitle 3 of this article; or

(ii) cause the insurer to be in a hazardous financial condition under § 9–102 of this article.

(E) “GROUP CAPITAL CALCULATION INSTRUCTIONS” MEANS THE GROUP CAPITAL CALCULATION INSTRUCTIONS ADOPTED BY THE NAIC, AS AMENDED FROM TIME TO TIME.

[(e)] (F) “Insurance holding company” means a person that directly or indirectly controls an insurer or controls a person that controls an insurer.

[(f)] (G) “Insurance holding company system” means two or more affiliates, at least one of which is an insurer.

(H) “LEAD STATE COMMISSIONER” MEANS THE LEAD STATE INSURANCE COMMISSIONER OF THE INSURANCE HOLDING COMPANY SYSTEM AS DETERMINED BY THE PROCEDURES IN THE NAIC FINANCIAL ANALYSIS HANDBOOK.

(I) “NAIC” MEANS THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS.

(J) “NAIC LIQUIDITY STRESS TEST FRAMEWORK” MEANS A SEPARATE NAIC PUBLICATION THAT INCLUDES, AS ADOPTED BY THE NAIC AND AS AMENDED:

(1) A HISTORY OF THE NAIC’S DEVELOPMENT OF REGULATORY LIQUIDITY STRESS TESTING;

(2) THE SCOPE CRITERIA APPLICABLE FOR A SPECIFIC DATA YEAR;

1 AND

2 (3) THE LIQUIDITY STRESS TEST INSTRUCTIONS AND REPORTING
3 TEMPLATES FOR A SPECIFIC DATA YEAR.

4 (K) "SCOPE CRITERIA" MEANS THE DESIGNATED EXPOSURE BASES ALONG
5 WITH MINIMUM MAGNITUDES OF EXPOSURE FOR THE SPECIFIED DATA YEAR, AS
6 DETAILED IN THE NAIC LIQUIDITY STRESS TEST FRAMEWORK, USED TO ESTABLISH
7 A PRELIMINARY LIST OF INSURERS CONSIDERED INCLUDED IN THE SCOPE OF THE
8 NAIC LIQUIDITY STRESS TEST FRAMEWORK FOR THAT DATA YEAR.

9 [(g)] (L) "Subsidiary" means an affiliate of a person that, directly or indirectly,
10 through one or more intermediaries, is controlled by that person.

11 [(h)] (M) "Ultimate controlling person" means the person within a holding
12 company system that is not controlled by any other person.

13 7–106.

14 (a) Except as provided in subsections (b) and (c) of this section or otherwise by
15 law, all information and documents that are filed with the Commissioner in compliance
16 with the requirements of this title or that are reported to, obtained by, or otherwise
17 disclosed to the Commissioner or any other person in the course of an examination or
18 investigation made under this title:

19 (1) are confidential material;

20 (2) are not subject to subpoena;

21 (3) may not be made public by the Commissioner, the [National Association
22 of Insurance Commissioners] NAIC, or any other person; and

23 (4) are not subject to discovery or admissible in evidence in any civil action.

24 (b) Material that otherwise is confidential under subsection (a) of this section may
25 be made public by any person who has received the prior written consent of the person to
26 whom the material relates.

27 (c) If, after giving the person to whom the material relates notice and an
28 opportunity to be heard, the Commissioner determines that it is in the interest of the
29 policyholders, stockholders, or the public to make public any material relating to the person
30 that otherwise is confidential under subsection (a) of this section, the Commissioner may
31 make public all or part of the material in an appropriate manner.

32 (D) (1) IN ADDITION TO THE PROTECTIONS AFFORDED CONFIDENTIAL

1 INFORMATION FILED UNDER THIS TITLE AND § 2-209 OF THIS ARTICLE, THE
2 FOLLOWING PROVISIONS APPLY EXPRESSLY TO CONFIDENTIAL INFORMATION THAT
3 IS IN THE CONTROL OR POSSESSION OF THE COMMISSIONER AND OBTAINED OR
4 GENERATED DURING AN ANALYSIS CONDUCTED IN ACCORDANCE WITH § 7-603(I)
5 AND (J) OF THIS TITLE.

6 (2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION,
7 THE DOCUMENT, MATERIAL, OR INFORMATION:

8 (I) IS RECOGNIZED AS BEING PROPRIETARY AND TO CONTAIN
9 TRADE SECRETS;

10 (II) IS CONFIDENTIAL AND PRIVILEGED;

11 (III) IS NOT SUBJECT TO THE PUBLIC INFORMATION ACT;

12 (IV) IS NOT SUBJECT TO SUBPOENA; AND

13 (V) IS NOT SUBJECT TO DISCOVERY OR ADMISSIBLE IN
14 EVIDENCE IN ANY PRIVATE CIVIL ACTION.

15 (3) THE COMMISSIONER MAY USE ANY DOCUMENT, MATERIAL, OR
16 INFORMATION THAT IS SUBJECT TO THIS SUBSECTION TO FURTHER ANY
17 REGULATORY OR LEGAL ACTION BROUGHT AS PART OF THE DUTIES OF THE
18 COMMISSIONER.

19 (4) THE COMMISSIONER AND ANY PERSON THAT RECEIVES A
20 DOCUMENT, MATERIAL, OR INFORMATION THAT IS SUBJECT TO THIS SUBSECTION
21 WHILE ACTING UNDER THE AUTHORITY OF THE COMMISSIONER MAY NOT BE
22 ALLOWED OR REQUIRED TO TESTIFY IN ANY PRIVATE CIVIL ACTION CONCERNING
23 THE DOCUMENT, MATERIAL, OR INFORMATION.

24 (5) A RECIPIENT OF ANY DOCUMENT, MATERIAL, OR INFORMATION
25 GENERATED UNDER § 7-603(I) AND (J) OF THIS TITLE MAY NOT STORE THE
26 DOCUMENT, MATERIAL, OR INFORMATION IN A PERMANENT DATABASE AFTER THE
27 UNDERLYING ANALYSIS IS COMPLETED.

28 (6) THE GROUP CAPITAL CALCULATION AND LIQUIDITY TEST, ALONG
29 WITH THE RESULT AND SUPPORTING DISCLOSURES REQUIRED UNDER § 7-603(I)
30 AND (J) OF THIS TITLE MAY NOT BE MADE PUBLIC FOR ANY REASON.

31 7-603.

32 (a) Each insurer subject to registration shall file the registration statement on

1 the form provided by the Commissioner, containing the following current information:

2 (1) the corporate and capital structure, general financial condition,
3 ownership, and management of the insurer and of any person controlling the insurer;

4 (2) the identity and relationship of each member of the insurance holding
5 company system;

6 (3) any pledge of the insurer's stock, including stock of a subsidiary or
7 controlling affiliate, for a loan made to any member of the insurance holding company
8 system;

9 (4) the following agreements in force, and transactions currently
10 outstanding or that have occurred during the previous calendar year between the insurer
11 and the insurer's affiliates:

12 (i) loans, other investments, purchases, sales, and exchanges of
13 securities of the affiliates by the insurer or of the insurer by its affiliates;

14 (ii) purchases, sales, and exchanges of assets;

15 (iii) transactions not in the ordinary course of business;

16 (iv) except for insurance contracts entered into in the ordinary course
17 of the insurer's business, guarantees or undertakings for the benefit of an affiliate that
18 result in an actual contingent exposure to liability of the insurer's assets;

19 (v) management agreements, service contracts, and cost-sharing
20 arrangements;

21 (vi) reinsurance agreements;

22 (vii) dividends and other distributions to shareholders; and

23 (viii) consolidated tax allocation agreements;

24 (5) statements that the insurer's board of directors oversees corporate
25 governance and internal controls and that the insurer's officers or senior management have
26 approved, implemented, and continue to maintain and monitor corporate governance and
27 internal control procedures;

28 (6) on request from the Commissioner and in accordance with subsection
29 (f) of this section, financial statements of or within an insurance holding company system,
30 including all affiliates;

31 (7) any other matters about transactions between the insurer and its
32 affiliates that the registration statement form requires; and

(8) a summary outlining all items in the current registration statement that represent changes from the prior registration statement.

(b) Each affiliate in an insurance holding company system shall give an insurer subject to registration under this subtitle that is in the same insurance holding company system complete and accurate information if that information is reasonably necessary to enable the insurer to comply with this subtitle.

(c) Each insurer required to register under this subtitle shall, on request of the insurance commissioner of any state where the insurer is authorized to do business, file with that commissioner a copy of the registration statement summary required by subsection (a)(8) of this section.

(d) The Commissioner may allow or require affiliated insurers subject to registration under this subtitle to file a consolidated registration statement.

(e) The Commissioner may require an insurer that is a member of an insurance holding company system and that is not subject to registration under this subtitle to provide to the Commissioner a copy of the registration statement or other information that the insurer files with the commissioner of the insurer's domiciliary jurisdiction.

(f) (1) Financial statements required under subsection (a)(6) of this section may include annual audited financial statements filed with the U.S. Securities and Exchange Commission under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended.

(2) An insurer required to file financial statements under subsection (a) of this section may satisfy the request by providing the Commissioner with the most recently filed parent corporation financial statements that have been filed with the U.S. Securities and Exchange Commission.

(g) (1) **[Unless] EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION AND UNLESS** otherwise provided by the Commissioner through regulation or order, a sale, a purchase, an exchange, a loan or an extension of credit, an investment, or a guarantee involving 0.5% or less of an insurer's admitted assets as of the December 31 immediately preceding the transaction is not material for purposes of this section.

(2) Information need not be disclosed on the registration statement filed under subsection (a) of this section if the information is not material.

(3) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY FOR PURPOSES OF THE GROUP CAPITAL CALCULATION OR THE LIQUIDITY STRESS TEST FRAMEWORK.

(h) (1) Beginning in 2015, the ultimate controlling person of every insurer

subject to registration shall file an annual enterprise risk report on or before July 1 of each year unless the Commissioner extends the time for filing for good cause.

(2) The enterprise risk report shall, to the best of the ultimate controlling person's knowledge and belief, identify the material risks within the insurance holding company system that could pose enterprise risk to the insurer.

(3) The enterprise risk report shall be filed with the lead state commissioner of the insurance holding company system as defined and determined by the procedures in the **NAIC Financial Analysis Handbook** [adopted by the National Association of Insurance Commissioners].

(4) The Commissioner may share the enterprise risk report filed under paragraph (1) of this subsection with an insurance regulatory agency in a state that has laws or regulations that the Commissioner determines are substantially similar to § 2-209(g) and (h) of this article, only if the agency agrees in writing to maintain the confidentiality and privileged status of the report.

(I) (1) (I) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE ULTIMATE CONTROLLING PERSON OF EACH INSURER SUBJECT TO REGISTRATION UNDER THIS SUBTITLE SHALL CONCURRENTLY FILE WITH THE REGISTRATION STATEMENT AN ANNUAL GROUP CAPITAL CALCULATION AS DIRECTED BY THE LEAD STATE COMMISSIONER OF THE INSURANCE GROUP.

(II) 1. THE REPORT SHALL BE COMPLETED IN ACCORDANCE WITH THE NAIC GROUP CAPITAL CALCULATION INSTRUCTIONS.

2. THE NAIC GROUP CAPITAL CALCULATION INSTRUCTIONS MAY AUTHORIZE THE LEAD STATE COMMISSIONER TO ALLOW A CONTROLLING PERSON THAT IS NOT THE ULTIMATE CONTROLLING PERSON TO FILE THE GROUP CAPITAL CALCULATION.

(III) THE REPORT SHALL BE FILED WITH THE LEAD STATE COMMISSIONER OF THE INSURANCE HOLDING COMPANY SYSTEM AS DETERMINED BY THE LEAD STATE COMMISSIONER IN ACCORDANCE WITH THE PROCEDURES IN THE NAIC FINANCIAL ANALYSIS HANDBOOK.

(2) THE FOLLOWING INSURANCE HOLDING COMPANY SYSTEMS ARE EXEMPT FROM FILING THE GROUP CAPITAL CALCULATION:

(I) AN INSURANCE HOLDING COMPANY SYSTEM THAT:

1. HAS ONLY ONE INSURER WITHIN ITS HOLDING COMPANY STRUCTURE;

1 2. ONLY WRITES BUSINESS AND IS ONLY LICENSED IN ITS
2 DOMESTIC STATE; AND

3 3. ASSUMES NO BUSINESS FROM ANY OTHER INSURER;

4 (II) AN INSURANCE HOLDING COMPANY SYSTEM THAT IS
5 REQUIRED TO PERFORM A GROUP CAPITAL CALCULATION SPECIFIED BY THE
6 FEDERAL RESERVE BOARD IS EXEMPT IF:

7 1. THE LEAD STATE COMMISSIONER REQUESTS THE
8 CALCULATION FROM THE FEDERAL RESERVE BOARD UNDER THE TERMS OF
9 INFORMATION SHARING AGREEMENTS IN EFFECT; AND

10 2. THE FEDERAL RESERVE BOARD SHARES THE
11 CALCULATION WITH THE LEAD STATE COMMISSIONER;

12 (III) AN INSURANCE HOLDING COMPANY SYSTEM WHOSE
13 FOREIGN GROUP-WIDE SUPERVISOR IS LOCATED WITHIN A RECIPROCAL
14 JURISDICTION AS DESCRIBED IN § 5-917 OF THIS ARTICLE THAT RECOGNIZES THE
15 U.S. STATE REGULATORY APPROACH TO GROUP SUPERVISION AND GROUP CAPITAL;

16 (IV) AN INSURANCE HOLDING COMPANY SYSTEM THAT
17 PROVIDES INFORMATION TO THE LEAD STATE THAT MEETS THE REQUIREMENTS
18 FOR ACCREDITATION UNDER THE NAIC FINANCIAL STANDARDS AND
19 ACCREDITATION PROGRAM, EITHER DIRECTLY OR INDIRECTLY THROUGH THE
20 GROUP-WIDE SUPERVISOR, WHO HAS DETERMINED THAT THE INFORMATION IS
21 SATISFACTORY TO ALLOW THE LEAD STATE TO COMPLY WITH THE NAIC GROUP
22 SUPERVISION APPROACH, AS DETAILED IN THE NAIC FINANCIAL ANALYSIS
23 HANDBOOK; AND

24 (V) AN INSURANCE HOLDING COMPANY SYSTEM WHOSE
25 FOREIGN GROUP-WIDE SUPERVISOR THAT IS NOT IN A RECIPROCAL JURISDICTION
26 RECOGNIZES AND ACCEPTS, AS THE LEAD STATE COMMISSIONER SPECIFIES BY
27 REGULATION, THE GROUP CAPITAL CALCULATION AS THE WORLD-WIDE GROUP
28 CAPITAL ASSESSMENT FOR U.S. INSURANCE GROUPS THAT OPERATE IN THAT
29 JURISDICTION.

30 (3) NOTWITHSTANDING PARAGRAPH (2) OF THIS SUBSECTION, THE
31 LEAD STATE COMMISSIONER SHALL REQUIRE THE GROUP CAPITAL CALCULATION
32 FOR U.S. OPERATIONS OF ANY FOREIGN-BASED INSURANCE HOLDING COMPANY
33 SYSTEM IF, AFTER ANY NECESSARY CONSULTATION WITH OTHER SUPERVISORS OR
34 OFFICIALS, THE LEAD STATE COMMISSIONER DETERMINES THAT THE GROUP

CAPITAL CALCULATION IS APPROPRIATE FOR PRUDENTIAL OVERSIGHT AND SOLVENCY MONITORING PURPOSES OR FOR ENSURING THE COMPETITIVENESS OF THE INSURANCE MARKETPLACE.

(4) NOTWITHSTANDING THE EXEMPTIONS FROM FILING THE GROUP CAPITAL CALCULATION STATED IN PARAGRAPH (2) OF THIS SUBSECTION, THE LEAD STATE COMMISSIONER MAY EXEMPT THE ULTIMATE CONTROLLING PERSON FROM FILING THE ANNUAL GROUP CAPITAL CALCULATION OR MAY ACCEPT A LIMITED GROUP CAPITAL FILING OR REPORT IN ACCORDANCE WITH CRITERIA THE LEAD STATE COMMISSIONER SPECIFIES BY REGULATION.

(5) IF THE LEAD STATE COMMISSIONER DETERMINES THAT AN INSURANCE HOLDING COMPANY SYSTEM NO LONGER MEETS ONE OR MORE OF THE REQUIREMENTS FOR AN EXEMPTION FROM FILING THE GROUP CAPITAL CALCULATION UNDER THIS SUBSECTION, THE INSURANCE HOLDING COMPANY SYSTEM SHALL FILE THE GROUP CAPITAL CALCULATION AT THE NEXT ANNUAL FILING DATE UNLESS THE LEAD STATE COMMISSIONER GRANTS AN EXTENSION BASED ON REASONABLE GROUNDS SHOWN.

(J) (1) THE ULTIMATE CONTROLLING PERSON OF EVERY INSURER THAT IS SUBJECT TO REGISTRATION UNDER THIS SECTION AND INCLUDED IN THE SCOPE OF THE NAIC LIQUIDITY STRESS TEST FRAMEWORK SHALL FILE THE RESULTS OF A SPECIFIC YEAR'S LIQUIDITY STRESS TEST CONCURRENTLY WITH THE REGISTRATION STATEMENT.

(2) THE FILING SHALL BE MADE TO THE LEAD STATE INSURANCE COMMISSIONER OF THE INSURANCE HOLDING COMPANY SYSTEM AS DETERMINED BY THE PROCEDURES IN THE NAIC FINANCIAL ANALYSIS HANDBOOK IN ACCORDANCE WITH PARAGRAPH (3) OF THIS SUBSECTION.

(3) (i) 1. THE NAIC LIQUIDITY STRESS TEST FRAMEWORK INCLUDES SCOPE CRITERIA APPLICABLE TO A SPECIFIC DATA YEAR.

2. THE SCOPE CRITERIA ARE REVIEWED AT LEAST ANNUALLY BY THE FINANCIAL STABILITY TASK FORCE OR ITS SUCCESSOR.

3. ANY CHANGES TO THE NAIC LIQUIDITY STRESS TEST FRAMEWORK OR TO THE DATA YEAR FOR WHICH THE SCOPE CRITERIA ARE TO BE MEASURED SHALL BE EFFECTIVE ON JANUARY 1 OF THE YEAR FOLLOWING THE CALENDAR YEAR WHEN THE CHANGES ARE ADOPTED.

(ii) INSURERS MEETING AT LEAST ONE THRESHOLD OF THE SCOPE CRITERIA ARE CONSIDERED INCLUDED IN THE SCOPE OF THE NAIC

1 LIQUIDITY STRESS TEST FRAMEWORK FOR THE SPECIFIED DATA YEAR UNLESS THE
2 LEAD STATE COMMISSIONER, IN CONSULTATION WITH THE NAIC FINANCIAL
3 STABILITY TASK FORCE OR ITS SUCCESSOR, DETERMINES THAT THE INSURER
4 SHOULD NOT BE INCLUDED IN THE SCOPE OF THE FRAMEWORK FOR THAT DATA
5 YEAR.

6 (III) INSURERS THAT DO NOT TRIGGER AT LEAST ONE
7 THRESHOLD OF THE SCOPE CRITERIA ARE CONSIDERED EXCLUDED FROM THE
8 SCOPE OF THE NAIC LIQUIDITY STRESS TEST FRAMEWORK FOR THE SPECIFIED
9 DATA YEAR, UNLESS THE LEAD STATE COMMISSIONER, IN CONSULTATION WITH THE
10 NAIC FINANCIAL STABILITY TASK FORCE OR ITS SUCCESSOR, DETERMINES THAT
11 THE INSURER SHOULD BE INCLUDED IN THE SCOPE OF THE FRAMEWORK FOR THAT
12 DATA YEAR.

13 (IV) ON REQUEST BY AN INSURER, THE LEAD STATE
14 COMMISSIONER MAY CONSULT WITH THE FINANCIAL STABILITY TASK FORCE OR
15 ITS SUCCESSOR TO ADDRESS THE INSURER'S EXPERIENCE OF BEING INCLUDED IN
16 OR EXCLUDED FROM THE SCOPE OF THE NAIC LIQUIDITY STRESS TEST
17 FRAMEWORK ON A FREQUENT BASIS.

18 (V) THE PERFORMANCE OF, AND FILING OF THE RESULTS
19 FROM, A SPECIFIC YEAR'S LIQUIDITY STRESS TEST SHALL COMPLY WITH THE NAIC
20 LIQUIDITY STRESS TEST FRAMEWORK'S INSTRUCTIONS AND REPORTING
21 TEMPLATES FOR THAT YEAR AND ANY LEAD STATE INSURANCE COMMISSIONER
22 DETERMINATIONS, IN CONSULTATION WITH THE FINANCIAL STABILITY TASK
23 FORCE OR ITS SUCCESSOR, INCLUDED IN THE FRAMEWORK.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 2024.