

1 HB641
2 212255-2
3 By Representative Rich
4 RFD: Insurance
5 First Read: 22-APR-21

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8 SYNOPSIS: Under existing law, the Commissioner of
9 Insurance regulates insurance holding company
10 systems pursuant to the Insurance Company Holding
11 Company System Regulatory Act. The members of an
12 insurance holding company system are required to
13 meet certain capital and liquidity requirements to
14 protect the solvency of the insurers within the
15 holding company. Based on reporting to the
16 commissioner, the commissioner performs group
17 analysis of an insurance holding company, but
18 without the benefit of a consolidated statutory
19 accounting system and financial statements.

20 This bill would provide for a group capital
21 calculation and related reporting requirements to
22 the Commissioner of Insurance regarding an
23 insurance holding company. The group capital
24 calculation would include a group capital ratio.

25 This bill would further provide for a
26 liquidity stress test of an insurance holding
27 company. The ultimate controlling person of every

1 insurer subject to holding company registration, if
2 determined to meet certain conditions, would be
3 required to file the results of a specific year's
4 liquidity stress test to the lead state insurance
5 commissioner to assist in the group regulation of
6 the insurance holding company.

7 This bill would further provide for the
8 confidentiality of information in the possession of
9 the Commissioner of Insurance and third party
10 consultants designated by the commissioner relating
11 to insurance holding company regulation and would
12 include the group capital calculation and resulting
13 group capital ratio and the liquidity stress test
14 and its results and supporting documentation as
15 filed with the commissioner within the
16 confidentiality provisions.

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT
21

22 Relating to insurance; to revise the Alabama
23 Insurance Holding Company System Regulatory Act and the
24 regulation of insurance holding company systems by the
25 Commissioner of Insurance; to provide for a group capital
26 calculation and a liquidity stress test within the insurance
27 holding company system; to further provide for the

1 confidentiality of information in the possession of the
2 Commissioner of Insurance and third party consultants
3 designated by the commissioner relating to insurance holding
4 company regulation and would include the group capital
5 calculation and resulting group capital ratio and for the
6 liquidity stress test and its results and supporting
7 documentation as filed with the commissioner within the
8 confidentiality provisions; and for these purposes to amend
9 Sections 27-29-1, 27-29-3, 27-29-4, and 27-29-7, Code of
10 Alabama 1975, as amended by Act 2019-97 of the 2019 Regular
11 Session.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Sections 27-29-1, 27-29-3, 27-29-4, and
14 27-29-7, Code of Alabama 1975, as amended by Act 2019-97 of
15 the 2019 Regular Session, are amended to read as follows:

16 "§27-29-1.

17 "For purposes of this chapter, unless otherwise
18 stated, the following terms shall have the meanings
19 respectively ascribed to them by this section:

20 "(1) AFFILIATE. The term shall include an affiliate
21 of, or person affiliated with, a specific person, and shall
22 mean a person that directly, or indirectly through one or more
23 intermediaries, controls, or is controlled by, or is under
24 common control with, the person specified.

25 "(2) COMMISSIONER. The Commissioner of Insurance,
26 his or her deputies, or the Insurance Department as
27 appropriate.

1 "(3) CONTROL. The term shall include controlling,
2 controlled by, or under common control with and shall mean the
3 possession, direct or indirect, of the power to direct or
4 cause the direction of the management and policies of a
5 person, whether through the ownership of voting securities, by
6 contract other than a commercial contract for goods or
7 nonmanagement services, or otherwise, unless the power is the
8 result of an official position with or corporate office held
9 by the person. Control shall be presumed to exist if any
10 person, directly or indirectly, owns, controls, holds with the
11 power to vote, or holds proxies representing five percent or
12 more of the voting securities of any other person. This
13 presumption may be rebutted by a showing made in the manner
14 provided by subsection (k) of Section 27-29-4 that control
15 does not exist in fact. The commissioner may determine, after
16 furnishing all persons in interest notice and opportunity to
17 be heard and making a specific finding of fact to support such
18 determination, that control exists in fact, notwithstanding
19 the absence of a presumption to that effect.

20 "(4) ENTERPRISE RISK. Any activity, circumstance,
21 event, or series of events involving one or more affiliates of
22 an insurer that, if not remedied promptly, is likely to have a
23 material adverse effect upon the financial condition or
24 liquidity of the insurer or its insurance holding company
25 system as a whole, including, but not limited to, anything
26 that would cause the insurer's risk-based capital to fall into

1 company action level as set forth in Section 27-2B-4 or would
2 cause the insurer to be in hazardous financial condition.

3 "(5) GROUP-WIDE SUPERVISOR. The regulatory official
4 authorized to engage in conducting and coordinating group-wide
5 supervision activities who is determined or acknowledged by
6 the commissioner under this chapter to have sufficient
7 significant contacts with the internationally active insurance
8 group.

9 "(6) GROUP CAPITAL CALCULATION INSTRUCTIONS. The
10 group capital calculation instructions as adopted and amended
11 by the NAIC from time to time in accordance with the
12 procedures adopted by the NAIC.

13 "~~(6)~~ (7) INSURANCE HOLDING COMPANY SYSTEM. A system
14 which consists of two or more affiliated persons, one or more
15 of which is an insurer.

16 "~~(7)~~ (8) INSURER. An insurance company as set forth
17 in Section 27-1-2, including, without limitation, any
18 fraternal benefit society, health care service plan, and
19 health maintenance organization, except that it shall not
20 include agencies, authorities, or instrumentalities of the
21 United States, its possessions and territories, the
22 Commonwealth of Puerto Rico, the District of Columbia, or a
23 state or political subdivision of a state.

24 "~~(8)~~ (9) INTERNATIONALLY ACTIVE INSURANCE GROUP. An
25 insurance holding company system that includes an insurer
26 registered under Section 27-29-4 that meets all of the
27 following criteria:

1 "a. Premiums are written in at least three
2 countries.

3 "b. The percentage of gross premiums written outside
4 the United States is at least 10 percent of the insurance
5 holding company system's total gross written premiums.

6 "c. Based on a three-year rolling average, the total
7 assets of the insurance holding company system are at least
8 fifty billion dollars (\$50,000,000,000) or the total gross
9 written premiums of the insurance holding company system are
10 at least ten billion dollars (\$10,000,000,000).

11 "(10) NATIONAL ASSOCIATION OF INSURANCE
12 COMMISSIONERS OR NAIC. The National Association of Insurance
13 Commissioners.

14 "(11) NAIC LIQUIDITY STRESS TEST FRAMEWORK. A
15 separate NAIC publication which includes a history of the
16 NAIC's development of regulatory liquidity stress testing, the
17 scope criteria applicable for a specific data year, and the
18 liquidity stress test instructions and reporting templates for
19 a specific data year, the scope criteria, instructions, and
20 reporting template as adopted and amended by the NAIC from
21 time to time in accordance with the procedures adopted by the
22 NAIC.

23 "~~(9)~~ (12) PERSON. An individual, a corporation, a
24 limited liability company, a partnership, an association, a
25 joint-stock company, a trust, an unincorporated organization,
26 or any similar entity or any combination of the foregoing
27 acting in concert, but shall not include any joint venture

1 partnership exclusively engaged in owning, managing, leasing,
2 or developing real or tangible personal property.

3 "(13) SCOPE CRITERIA. As detailed in the NAIC
4 Liquidity Stress Test Framework, the designated exposure bases
5 along with minimum magnitudes thereof for the specified data
6 year, used to establish a preliminary list of insurers
7 considered scoped into the NAIC Liquidity Stress Test
8 Framework for that data year.

9 ~~"(10)~~ (14) SECURITYHOLDER. One who owns any security
10 of such person, including common stock, preferred stock, debt
11 obligations, and other security convertible into, or
12 evidencing, the right to acquire any of the foregoing.

13 ~~"(11)~~ (15) SUBSIDIARY. An affiliate controlled by
14 such person, directly or indirectly, through one or more
15 intermediaries.

16 ~~"(12)~~ (16) VOTING SECURITY. The term shall include
17 any security convertible into, or evidencing, a right to
18 acquire a voting security.

19 "§27-29-3.

20 "(a) (1) No person other than the issuer shall make a
21 tender offer for or a request or invitation for tenders of, or
22 enter into any agreement to exchange securities for, seek to
23 acquire, or acquire in the open market any voting security of
24 a domestic insurer if, after the consummation thereof, such
25 person would, directly or indirectly, or by conversion or by
26 exercise of any right to acquire, be in control of such
27 insurer, and no person shall enter into an agreement to merge

1 with or otherwise to acquire control of a domestic insurer, or
2 any person controlling a domestic insurer unless, at the time
3 any such offer, request, or invitation is made or any such
4 agreement is entered into, or prior to the acquisition of such
5 securities if no offer or agreement is involved such person
6 has filed with the commissioner and has sent to such insurer a
7 statement containing the information required by this section
8 and such offer, request, invitation, agreement, or acquisition
9 has been approved by the commissioner in the manner prescribed
10 in this section.

11 "(2) For purposes of this section, any controlling
12 person of a domestic insurer seeking to divest its controlling
13 interest in the domestic insurer, in any manner, shall file
14 with the commissioner, with a copy to the insurer,
15 confidential notice of its proposed divestiture at least 30
16 days prior to the cessation of control. The commissioner shall
17 determine those instances in which the party or parties
18 seeking to divest or to acquire a controlling interest in an
19 insurer, will be required to file for and obtain approval of
20 the transaction. The information shall remain confidential
21 until the conclusion of the transaction unless the
22 commissioner, in his or her discretion, determines that
23 confidential treatment will interfere with enforcement of this
24 section. If the statement referred to in subdivision (1) is
25 otherwise filed, this subdivision shall not apply.

26 "(3) With respect to a transaction subject to this
27 section, the acquiring person must also file a pre-acquisition

1 notification with the commissioner, which shall contain the
2 information set forth in subdivision (1) of subsection (c) of
3 Section 27-29-3.1. A failure to file the notification may be
4 subject to penalty specified in subdivision of (3) of
5 subsection (e) of Section 27-29-3.1.

6 "(4) For purposes of this section:

7 "a. A domestic insurer includes any person
8 controlling a domestic insurer unless the person, as
9 determined by the commissioner, is either directly or through
10 its affiliates primarily engaged in business other than the
11 business of insurance.

12 "b. Person does not include any securities broker
13 holding, in the usual and customary broker's function, less
14 than 20 percent of the voting securities of an insurance
15 company or of any person which controls an insurance company.

16 "(b) (1) The statement to be filed with the
17 commissioner under this section shall be made under oath or
18 affirmation and shall contain all of the following
19 information:

20 "a. The name and address of each person by whom, or
21 on whose behalf, the merger or other acquisition of control
22 referred to in subsection (a) is to be effected (hereinafter
23 called "acquiring party"), and either of the following:

24 "1. If the person is an individual, his or her
25 principal occupation and all offices and positions held during
26 the past five years, and any conviction of crimes other than
27 minor traffic violations during the past 10 years.

1 "2. If the person is not an individual, a report of
2 the nature of its business operations during the past five
3 years or for the lesser period as such person and any
4 predecessors thereof shall have been in existence; an
5 informative description of the business intended to be done by
6 the person and the person's subsidiaries; and a list of all
7 individuals who are, or who have been selected to become,
8 directors or executive officers of the person or who perform,
9 or will perform, functions appropriate to the positions. The
10 list shall include for each individual the information
11 required by subparagraph 1.

12 "b. The source, nature, and amount of the
13 consideration used, or to be used, in effecting the merger or
14 other acquisition of control, a description of any transaction
15 wherein funds were, or are to be, obtained for any such
16 purpose, including any pledge of the insurer's stock, or the
17 stock of any of its subsidiaries or controlling affiliates,
18 and the identity of persons furnishing such consideration;
19 provided, however, that where a source of such consideration
20 is a loan made in the lender's ordinary course of business,
21 the identity of the lender shall remain confidential if the
22 person filing such statement so requests.

23 "c. Fully audited financial information as to the
24 earnings and financial condition of each acquiring party for
25 the preceding five fiscal years of each such acquiring party,
26 or for such lesser period as such acquiring party and any
27 predecessors thereof shall have been in existence, and similar

1 unaudited information as of a date not earlier than 90 days
2 prior to the filing of the statement.

3 "d. Any plans or proposals which each acquiring
4 party may have to liquidate such insurer, to sell its assets,
5 or to merge or consolidate it with any person or to make any
6 other material change in its business or corporate structure
7 or management.

8 "e. The number of shares of any security referred to
9 in subsection (a) which each acquiring party proposes to
10 acquire, the terms of the offer, request, invitation,
11 agreement, or acquisition referred to in subsection (a), and a
12 statement as to the method by which the fairness of the
13 proposal was arrived at.

14 "f. The amount of each class of any security
15 referred to in subsection (a) which is beneficially owned or
16 concerning which there is a right to acquire beneficial
17 ownership by each acquiring party.

18 "g. A full description of any contracts,
19 arrangements, or understandings with respect to any security
20 referred to in subsection (a) in which any acquiring party is
21 involved, including, but not limited to, transfer of any of
22 the securities, joint ventures, loan or option arrangements,
23 puts or calls, guarantees of loans, guarantees against loss or
24 guarantees of profits, division of losses or profits, or the
25 giving or withholding of proxies. Such description shall
26 identify the persons with whom such contracts, arrangements,
27 or understandings have been entered.

1 "h. A description of the purchase of any security
2 referred to in subsection (a) during the 12 calendar months
3 preceding the filing of the statement by any acquiring party,
4 including the dates of purchase, names of the purchasers, and
5 consideration paid, or agreed to be paid, therefor.

6 "i. A description of any recommendations to purchase
7 any security referred to in subsection (a) made during the 12
8 calendar months preceding the filing of the statement by any
9 acquiring party or by anyone based upon interviews or at the
10 suggestion of such acquiring party.

11 "j. Copies of all tender offers for, requests or
12 invitations for tenders of, exchange offers for and agreements
13 to acquire or exchange any securities referred to in
14 subsection (a) and, if distributed, of additional soliciting
15 material relating thereto.

16 "k. The terms of any agreement, contract, or
17 understanding made with or proposed to be made with any
18 broker-dealer as to solicitation of securities referred to in
19 subsection (a) for tender and the amount of any fees,
20 commissions, or other compensation to be paid to
21 broker-dealers with regard thereto.

22 "l. An agreement by the person required to file the
23 statement referred to in subsection (a) that it will provide
24 the annual report, specified in subdivision (1) of subsection
25 (1) of Section 27-29-4, for so long as control exists.

26 "m. An acknowledgement by the person required to
27 file the statement referred to in subsection (a) that the

1 person and all subsidiaries within its control in the
2 insurance holding company system will provide information to
3 the commissioner upon request as necessary to evaluate
4 enterprise risk to the insurer.

5 "n. Such additional information as the commissioner
6 may, by rule or regulation, prescribe as necessary or
7 appropriate for the protection of policyholders of the insurer
8 or in the public interest.

9 "(2) If the person required to file the statement
10 referred to in subsection (a) is a partnership, limited
11 partnership, syndicate, or other group, the commissioner may
12 require that the information called for by paragraphs a.
13 through n. of subdivision (1) shall be given with respect to
14 each partner of such partnership or limited partnership, each
15 member of such syndicate or group, and each person who
16 controls such partner or member. If any such partner, member,
17 or person is a corporation or the person required to file the
18 statement referred to in subsection (a) is a corporation, the
19 commissioner may require that the information called for by
20 paragraphs a. through n. of subdivision (1) shall be given
21 with respect to such corporation, each officer and director of
22 such corporation, and each person who is, directly or
23 indirectly, the beneficial owner of more than 10 percent of
24 the outstanding voting securities of such corporation. If any
25 material change occurs in the facts set forth in the statement
26 filed with the commissioner and sent to such insurer pursuant
27 to this section, an amendment setting forth such change,

1 together with copies of all documents and other materials
2 relevant to such change, shall be filed with the commissioner
3 and sent to such insurer within two business days after the
4 person learns of such change.

5 "(c) If any offer, request, invitation, agreement,
6 or acquisition referred to in subsection (a) is proposed to be
7 made by means of a registration statement under the Securities
8 Act of 1933, or in circumstances requiring the disclosure of
9 similar information under the Securities Exchange Act of 1934,
10 or under a state law requiring similar registration or
11 disclosure, the person required to file the statement referred
12 to in subsection (a) may utilize such documents in furnishing
13 the information called for by that statement.

14 "(d) (1) The commissioner shall approve any merger or
15 other acquisition of control referred to in subsection (a)
16 unless, after a public hearing thereon, he or she finds any of
17 the following:

18 "a. After the change of control, the domestic
19 insurer referred to in subsection (a) would not be able to
20 satisfy the requirements for the issuance of a license to
21 write the line, or lines, of insurance for which it is
22 presently licensed.

23 "b. The effect of the merger or other acquisition of
24 control would be substantially to lessen competition in
25 insurance in this state or to create a monopoly therein. In
26 applying the competitive standard in this paragraph:

1 "1. The informational requirements of subdivision
2 (1) of subsection (c) of Section 27-29-3.1 and the standards
3 of subdivision (2) of subsection (d) of Section 27-29-3.1
4 shall apply.

5 "2. The merger or other acquisition shall not be
6 disapproved if the commissioner finds that any of the
7 situations meeting the criteria provided by subdivision (3) of
8 subsection (d) of Section 27-29-3.1 exist.

9 "3. The commissioner may condition the approval of
10 the merger or other acquisition on the removal of the basis of
11 disapproval within a specified period of time.

12 "c. The financial condition of any acquiring party
13 is such as might jeopardize the financial stability of the
14 insurer or prejudice the interest of its policyholders.

15 "d. The plans or proposals which the acquiring party
16 has to liquidate the insurer, to sell its assets, or to
17 consolidate or merge it with any person or to make any other
18 material change in its business or corporate structure or
19 management are unfair and unreasonable to policyholders of the
20 insurer and not in the public interest.

21 "e. The competence, experience, and integrity of
22 those persons who would control the operation of the insurer
23 are such that it would not be in the interest of policyholders
24 of the insurer and of the public to permit the merger or other
25 acquisition of control.

26 "f. The acquisition is likely to be hazardous or
27 prejudicial to the insurance-buying public.

1 "(2) The public hearing referred to in subdivision
2 (1) shall be held within 30 days after the statement required
3 by subsection (a) is filed, and at least 20 days' notice
4 thereof shall be given by the commissioner to the person
5 filing the statement. Not less than seven days' notice of such
6 public hearing shall be given by the person filing the
7 statement to the insurer and to such other persons as may be
8 designated by the commissioner. The commissioner shall make a
9 determination within the 60-day period preceding the effective
10 date of the proposed transaction. At such hearing, the person
11 filing the statement, the insurer, any person to whom notice
12 of hearing was sent, and any other person whose interest may
13 be affected thereby shall have the right to present evidence,
14 examine and cross-examine witnesses, and offer oral and
15 written arguments and, in connection therewith, shall be
16 entitled to conduct discovery proceedings in the same manner
17 as is presently allowed in the circuit courts of this state.
18 All discovery proceedings shall be concluded not later than
19 three days prior to the commencement of the public hearing.

20 "(3) If the proposed acquisition of control will
21 require the approval of more than one commissioner, the public
22 hearing referred to in subdivision (2) may be held on a
23 consolidated basis upon request of the person filing the
24 statement referred to in subsection (a). The person shall file
25 the statement referred to in subsection (a) with the ~~National~~
26 ~~Association of Insurance Commissioners~~ NAIC within five days
27 of making the request for a public hearing. A commissioner may

1 opt out of a consolidated hearing, and shall provide notice to
2 the applicant of the opt-out within 10 days of the receipt of
3 the statement referred to in subsection (a). A hearing
4 conducted on a consolidated basis shall be public and shall be
5 held within the United States before the commissioners of the
6 states in which the insurers are domiciled. The commissioners
7 shall hear and receive evidence. A commissioner may attend the
8 hearing in person or by telecommunication.

9 "(4) In connection with a change of control of a
10 domestic insurer, any determination by the commissioner that
11 the person acquiring control of the insurer shall be required
12 to maintain or restore the capital of the insurer to the level
13 required by the laws and regulations of this state shall be
14 made not later than 60 days after the date of notification of
15 the change in control submitted pursuant to subdivision (1) of
16 subsection (a).

17 "(5) The commissioner may retain any attorneys,
18 actuaries, accountants, and other experts not otherwise a part
19 of the commissioner's staff as may be reasonably necessary to
20 assist the commissioner in reviewing the proposed acquisition
21 of control, the reasonable expenses of which shall be borne by
22 the acquiring person.

23 "(e) The provisions of this section shall not apply
24 to:

25 "(1) Any transaction which is subject to the
26 provisions of Sections 27-27-45 and 27-27-46, dealing with the
27 merger or consolidation of two or more insurers.

1 "(2) Any offer, request, invitation, agreement, or
2 acquisition which the commissioner by order shall exempt
3 therefrom as either of the following:

4 "a. Not having been made or entered into for the
5 purpose and not having the effect of changing or influencing
6 the control of a domestic insurer.

7 "b. As otherwise not comprehended within the
8 purposes of this section.

9 "(f) The following shall be violations of this
10 section:

11 "(1) The failure to file any statement, amendment,
12 or other material required to be filed pursuant to subsections
13 (a) or (b).

14 "(2) The effectuation, or any attempt to effectuate,
15 an acquisition of control of, or merger with, a domestic
16 insurer unless the commissioner has given his or her approval
17 thereto.

18 "(g) The courts of this state are hereby vested with
19 jurisdiction over every person not resident, domiciled, or
20 authorized to do business in this state who files a statement
21 with the commissioner under this section and over all actions
22 involving such person arising out of violations of this
23 section, and each such person shall be deemed to have
24 performed acts equivalent to and constituting an appointment
25 by such a person of the commissioner to be his or her true and
26 lawful attorney upon whom may be served all lawful process in
27 any action or proceeding arising out of violations of this

1 section. Copies of all such lawful process shall be served on
2 the commissioner and transmitted by registered or certified
3 mail by the commissioner to such person at his or her last
4 known address.

5 "§27-29-4.

6 "(a) (1) Every insurer which is authorized to do
7 business in this state and which is a member of an insurance
8 holding company system shall register with the commissioner,
9 except a foreign insurer subject to registration requirements
10 and standards adopted by statute or regulation in the
11 jurisdiction of its domicile which are substantially similar
12 to those contained in this section and both of the following:

13 "a. Subdivision (1) of subsection (a) of Section
14 27-29-5, and subsections (b) and (d) of Section 27-29-5.

15 "b. Either subdivision (2) of subsection (a) of
16 Section 27-29-5 or a provision such as the following: Each
17 registered insurer shall keep current the information required
18 to be disclosed in its registration statement by reporting all
19 material changes or additions within 15 days after the end of
20 the month in which it learns of each change or addition.

21 "(2) Any insurer which is subject to registration
22 under this section shall register within 15 days after it
23 becomes subject to registration, and annually thereafter by
24 June 1 of each year for the previous calendar year, unless the
25 commissioner for good cause shown extends the time for
26 registration and, then, within such extended time. The
27 commissioner may require any authorized insurer which is a

1 member of an insurance holding company system which is not
2 subject to registration under this section to furnish a copy
3 of the registration statement, the summary specified in
4 subsection (c), or other information filed by such insurance
5 company with the insurance regulatory authority of domiciliary
6 jurisdiction.

7 "(b) Every insurer subject to registration shall
8 file a registration statement on a form prescribed by the
9 commissioner by rule which shall contain the following current
10 information:

11 "(1) The capital structure, general financial
12 condition, ownership, and management of the insurer and any
13 person controlling the insurer.

14 "(2) The identity of every member of the insurance
15 holding company system.

16 "(3) The following agreements in force, and
17 transactions currently outstanding or which have occurred
18 during the last calendar year between such insurer and its
19 affiliates:

20 "a. Loans, other investments or purchases, sales or
21 exchanges of securities of the affiliates by the insurer or of
22 the insurer by its affiliates.

23 "b. Purchases, sales, or exchanges of assets.

24 "c. Transactions not in the ordinary course of
25 business.

26 "d. Guarantees or undertakings for the benefit of an
27 affiliate which result in an actual contingent exposure of the

1 insurer's assets to liability, other than insurance contracts
2 entered into in the ordinary course of the insurer's business.

3 "e. All management agreements and service contracts
4 and all cost-sharing arrangements.

5 "f. Reinsurance agreements.

6 "g. Dividends and other distributions to
7 shareholders.

8 "h. Consolidated tax allocation agreements.

9 "(4) Any pledge of the insurer's stock, including
10 stock of any subsidiary or controlling affiliate, for a loan
11 made to any member of the insurance holding company system.

12 "(5) If requested by the commissioner, financial
13 statements of or within an insurance holding company system,
14 including all affiliates. Financial statements may include,
15 but are not limited to, annual audited financial statements
16 filed with the U.S. Securities and Exchange Commission
17 pursuant to the Securities Act of 1933, as amended, or the
18 Securities Exchange Act of 1934, as amended. An insurer
19 required to file financial statements pursuant to this
20 subdivision may satisfy the request by providing the
21 commissioner with the most recently filed parent corporation
22 financial statements that have been filed with the Securities
23 Exchange Commission. Financial statements of insurer's
24 affiliates required to be filed with the commissioner may be
25 filed by the insurer in the accounting standard utilized by
26 the affiliate in its usual course of business at the time of
27 the filing.

1 "(6) Other matters concerning transactions between
2 registered insurers and any affiliates as may be included,
3 from time to time, in any registration forms adopted or
4 approved by the commissioner.

5 "(7) Statements that the insurer's board of
6 directors or an appropriate committee of the board oversees
7 corporate governance and internal controls and that the
8 insurer's officers or senior management have approved,
9 implemented, and continue to maintain and monitor corporate
10 governance and internal control procedures.

11 "(8) Any other information required by the
12 commissioner by rule.

13 "(c) All registration statements shall contain a
14 summary outlining all items in the current registration
15 statement representing changes from the prior registration
16 statement.

17 "(d) No information need be disclosed on the
18 registration statement filed pursuant to subsection (b) if
19 such information is not material for the purposes of this
20 section. Unless the commissioner by rule, regulation, or order
21 provides otherwise, sales, purchases, exchanges, loans, or
22 extensions of credit or investments involving one-half of one
23 percent or less of an insurer's admitted assets as of December
24 31, next preceding, shall not be deemed material for purposes
25 of this section. The definition of materiality provided in
26 this subsection shall not apply for purposes of the Group
27 Capital Calculation or the Liquidity Stress Test Framework.

1 "(e) Subject to subsection (b) of Section 27-29-5,
2 each registered insurer shall so report all dividends and
3 other distributions to shareholders within 15 business days
4 following the declaration thereof.

5 "(f) Any person within an insurance holding company
6 system subject to registration shall be required to provide
7 complete and accurate information to an insurer, where the
8 information is reasonably necessary to enable the insurer to
9 comply with the provisions of this chapter.

10 "(g) The commissioner shall terminate the
11 registration of any insurer which demonstrated that it no
12 longer is a member of an insurance holding company system.

13 "(h) The commissioner may require or allow two or
14 more affiliated insurers subject to registration under this
15 section to file a consolidated registration statement.

16 "(i) The commissioner may allow an insurer which is
17 authorized to do business in this state and which is part of
18 an insurance holding company system to register on behalf of
19 any affiliated insurer which is required to register under
20 subsection (a) and to file all information and material
21 required to be filed under this section.

22 "(j) The provisions of this section shall not apply
23 to any insurer, information, or transaction if, and to the
24 extent that, the commissioner by rule, regulation, or order
25 shall exempt the same from the provisions of this section.

26 "(k) Any person may file with the commissioner a
27 disclaimer of affiliation with any authorized insurer or a

1 disclaimer may be filed by the insurer or any member of an
2 insurance holding company system. The disclaimer shall fully
3 disclose all material relationships and bases for affiliation
4 between the person and the insurer as well as the basis for
5 disclaiming such affiliation. A disclaimer of affiliation
6 shall be deemed to have been granted unless the commissioner,
7 within 30 days following receipt of a complete disclaimer,
8 notifies the filing party the disclaimer is disallowed. In the
9 event of disallowance, the disclaiming party may request an
10 administrative hearing, which shall be granted. The
11 disclaiming party shall be relieved of its duty to register
12 under this section if approval of the disclaimer has been
13 granted by the commissioner, or if the disclaimer is deemed to
14 have been approved.

15 "(1) Enterprise Risk Filings.

16 "(1) Enterprise Risk Report. The ultimate
17 controlling person of every insurer subject to registration
18 shall also file an annual enterprise risk report. The report
19 shall, to the best of the ultimate controlling person's
20 knowledge and belief, identify the material risks within the
21 insurance holding company system that could pose enterprise
22 risk to the insurer. The report shall be filed with the lead
23 state commissioner of the insurance holding company system as
24 determined by the procedures within the Financial Analysis
25 Handbook adopted by the ~~National Association of Insurance~~
26 ~~Commissioners~~ NAIC.

1 "(2) Group Capital Calculation. Except as provided
2 in this subdivision, the ultimate controlling person of every
3 insurer subject to registration shall concurrently file with
4 the registration an annual group capital calculation as
5 directed by the lead state commissioner. The report shall be
6 completed in accordance with the NAIC Group Capital
7 Calculation Instructions, which may permit the lead state
8 commissioner to allow a controlling person that is not the
9 ultimate controlling person to file the group capital
10 calculation. The report shall be filed with the lead state
11 commissioner of the insurance holding company system as
12 determined by the commissioner in accordance with the
13 procedures within the Financial Analysis Handbook adopted by
14 the NAIC. The following insurance holding company systems
15 described are exempt from filing the group capital
16 calculation:

17 "a. An insurance holding company system that has
18 only one insurer within its holding company structure, that
19 only writes business and is only licensed in its domestic
20 state, and assumes no business from any other insurer.

21 "b. An insurance holding company system that is
22 required to perform a group capital calculation specified by
23 the United States Federal Reserve Board. The lead state
24 commissioner shall request the calculation from the Federal
25 Reserve Board under the terms of information sharing
26 agreements in effect. If the Federal Reserve Board cannot
27 share the calculation with the lead state commissioner, the

1 insurance holding company system is not exempt from the group
2 capital calculation filing.

3 "c. An insurance holding company system whose
4 non-U.S. group-wide supervisor is located within a Reciprocal
5 Jurisdiction as described in Section 27-5B-8.1, as added to
6 the Code of Alabama 1975, by Act 2021-235, HB32, 2021 Regular
7 Session, which recognizes the U.S. state regulatory approach
8 to group supervision and group capital.

9 "d. An insurance holding company system meeting both
10 of the following:

11 "1. That provides information to the lead state that
12 meets the requirements for accreditation under the NAIC
13 financial standards and accreditation program, either directly
14 or indirectly through the group-wide supervisor, who has
15 determined such information is satisfactory to allow the lead
16 state to comply with the NAIC group supervision approach, as
17 detailed in the NAIC Financial Analysis Handbook.

18 "2. Whose non-U.S. group-wide supervisor that is not
19 in a Reciprocal Jurisdiction recognizes and accepts, as
20 specified by the commissioner in regulation, the group capital
21 calculation as the world-wide group capital assessment for
22 U.S. insurance groups who operate in that jurisdiction.

23 "e. Notwithstanding the provisions of paragraphs c.
24 and d., a lead state commissioner shall require the group
25 capital calculation for U.S. operations of any non-U.S. based
26 insurance holding company system when, after any necessary
27 consultation with other supervisors or officials, the lead

1 state commissioner deems it appropriate for prudential
2 oversight and solvency monitoring purposes or for ensuring the
3 competitiveness of the insurance marketplace.

4 "f. Notwithstanding the exemptions from filing the
5 group capital calculation stated in paragraphs a. through d.,
6 the lead state commissioner may exempt the ultimate
7 controlling person from filing the annual group capital
8 calculation or to accept a limited group capital filing or
9 report in accordance with criteria as specified by the
10 commissioner in regulation.

11 "g. If the lead state commissioner determines that
12 an insurance holding company system no longer meets one or
13 more of the requirements for an exemption from filing the
14 group capital calculation under this section, the insurance
15 holding company system shall file the group capital
16 calculation at the next annual filing date unless given an
17 extension by the lead state commissioner based on reasonable
18 grounds shown.

19 "(3) Liquidity Stress Test.

20 "a. The ultimate controlling person of every insurer
21 subject to registration and also scoped into the NAIC
22 Liquidity Stress Test Framework shall file the results of a
23 specific year's liquidity stress test. The filing shall be
24 made to the lead state insurance commissioner of the insurance
25 holding company system as determined by the procedures within
26 the Financial Analysis Handbook adopted by the NAIC.

1 "b. The NAIC Liquidity Stress Test Framework
2 includes scope criteria applicable to a specific data year.
3 These scope criteria are reviewed at least annually by the
4 Financial Stability Task Force or its successor. Any change to
5 the NAIC Liquidity Stress Test Framework or to the data year
6 for which the scope criteria are to be measured shall be
7 effective on January 1 of the year following the calendar year
8 when such changes are adopted. Insurers meeting at least one
9 threshold of the scope criteria are considered scoped into the
10 NAIC Liquidity Stress Test Framework for the specified data
11 year unless the lead state insurance commissioner, in
12 consultation with the NAIC Financial Stability Task Force or
13 its successor, determines the insurer should not be scoped
14 into the framework for that data year. Similarly, insurers
15 that do not trigger at least one threshold of the scope
16 criteria are considered scoped out of the NAIC Liquidity
17 Stress Test Framework for the specified data year, unless the
18 lead state insurance commissioner, in consultation with the
19 NAIC Financial Stability Task Force or its successor,
20 determines the insurer should be scoped into the framework for
21 that data year.

22 "c. Regulators should avoid having insurers scoped
23 in and out of the NAIC Liquidity Stress Test Framework on a
24 frequent basis. The lead state insurance commissioner, in
25 consultation with the Financial Stability Task Force or its
26 successor, shall assess this concern as part of the
27 determination for an insurer.

1 "d. The performance of, and filing of the results
2 from, a specific year's liquidity stress test shall comply
3 with the NAIC Liquidity Stress Test Framework's instructions
4 and reporting templates for that year and any lead state
5 insurance commissioner determinations, in conjunction with the
6 Financial Stability Task Force or its successor, provided
7 within the Framework.

8 "(m) The failure to file a registration statement or
9 any summary of the registration statement or enterprise risk
10 filing required by this section within the time specified for
11 filing shall be a violation of this section.

12 "§27-29-7.

13 "(a) (1) All documents, materials, or other
14 information, and copies thereof, in the possession or control
15 of the department that are obtained by or disclosed to the
16 commissioner or any other person in the course of an
17 examination or investigation made pursuant to Section 27-29-6
18 and all information reported pursuant to paragraphs l. and m.
19 of subdivision (1) of subsection (b) of Section 27-29-3,
20 Section 27-29-4, Section 27-29-5, and Section 27-29-6.2 are
21 recognized by this state as being proprietary and containing
22 trade secrets, and shall be confidential by law and
23 privileged, shall not be subject to any open records, freedom
24 of information, sunshine or other public record disclosure
25 laws, and shall not be subject to subpoena. The commissioner
26 may use the documents, materials, and other information in the
27 furtherance of any regulatory or legal action in the course of

1 the commissioner's official duties. The documents, materials,
2 and other information shall not be made public by the
3 commissioner or any other person without the prior written
4 consent of the insurer to which it pertains unless the
5 commissioner determines that the interests of policyholders,
6 shareholders, or the public will be served by the publication
7 thereof, in which event the commissioner may publish all, or
8 any part thereof, in such manner as the commissioner may deem
9 appropriate. Prior to making this determination, the
10 commissioner shall give the insurer and its affiliates who
11 would be affected thereby no less than 10 days' written notice
12 of the opportunity to request a hearing on the matter.

13 "(2) For purposes of the information reported and
14 provided to the commissioner pursuant to subdivision (2) of
15 subsection (1) of Section 27-29-4, the commissioner shall
16 maintain the confidentiality of the group capital calculation
17 and group capital ratio produced within the calculation and
18 any group capital information received from an insurance
19 holding company supervised by the Federal Reserve Board or any
20 U.S. group-wide supervisor.

21 "(3) For purposes of the information reported and
22 provided to the commissioner pursuant to subdivision (3) of
23 subsection (1) of Section 27-29-4, the commissioner shall
24 maintain the confidentiality of the liquidity stress test
25 results and supporting disclosures and any liquidity stress
26 test information received from an insurance holding company

1 supervised by the Federal Reserve Board and non-U.S.
2 group-wide supervisors.

3 "(b) Neither the commissioner nor any person who
4 received documents, materials, or other information while
5 acting under the authority of the commissioner or with whom
6 such documents, materials, or other information are shared
7 pursuant to this chapter shall be permitted or required to
8 testify in any private civil action concerning any
9 confidential documents, materials, or information subject to
10 subsection (a).

11 "(c) In order to assist in the performance of the
12 commissioner's duties, the commissioner:

13 "(1) May share documents, materials, or other
14 information, including the confidential and privileged
15 documents, materials, or information subject to subsection
16 (a), including proprietary and trade secret documents and
17 materials, with other state, federal, and international
18 regulatory agencies, with the ~~National Association of~~
19 ~~Insurance Commissioners~~ NAIC, with any third-party consultants
20 designated by the commissioner, and its affiliates and
21 ~~subsidiaries,~~ and with state, federal, and international law
22 enforcement authorities, including members of any supervisory
23 college described in Section 27-29-6.1, provided that the
24 recipient agrees in writing to maintain the confidentiality
25 and privileged status of the document, material, or other
26 information, and has verified in writing the legal authority
27 to maintain confidentiality.

1 "(2) Notwithstanding subdivision (1) above, may
2 share confidential and privileged documents, material, or
3 information reported pursuant to subsection (1) of Section
4 27-29-4 only with commissioners of states having statutes or
5 regulations substantially similar to subsection (a) and who
6 have agreed in writing not to disclose such information.

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

19 "(4) Shall enter into written agreements with the
20 ~~National Association of Insurance Commissioners~~ NAIC and any
21 third-party consultant designated by the commissioner
22 governing sharing and use of information provided pursuant to
23 this chapter consistent with this subsection that shall:

24 "a. Specify procedures and protocols regarding the
25 confidentiality and security of information shared with the
26 ~~National Association of Insurance Commissioners and its~~
27 ~~affiliates and subsidiaries~~ NAIC or a third-party consultant

1 designated by the commissioner pursuant to this chapter,
2 including procedures and protocols for sharing by the ~~National~~
3 ~~Association of Insurance Commissioners~~ NAIC with other state,
4 federal, or international regulators. The agreement shall
5 provide that the recipient agrees in writing to maintain the
6 confidentiality and privileged status of the documents,
7 materials, or other information and has verified in writing
8 the legal authority to maintain the confidentiality.

9 "b. Specify that ownership of information shared
10 with the ~~National Association of Insurance Commissioners~~ and
11 ~~its affiliates and subsidiaries~~ NAIC or a third-party
12 consultant pursuant to this chapter remains with the
13 commissioner and the use of the information by the ~~National~~
14 ~~Association of Insurance Commissioners~~ NAIC or a third-party
15 consultant as designated by the commissioner is subject to the
16 direction of the commissioner.

17 "c. Require at least 10 days' notice to be given to
18 an insurer whose confidential information in the possession of
19 the ~~National Association of Insurance Commissioners~~ NAIC or a
20 third-party consultant designated by the commissioner pursuant
21 to this chapter is subject to a request or subpoena to the
22 ~~National Association of Insurance Commissioners~~ NAIC or a
23 third-party consultant designated by the commissioner for
24 disclosure or production.

25 "d. Require the ~~National Association of Insurance~~
26 ~~Commissioners and its affiliates and subsidiaries~~ NAIC or a
27 third-party consultant designated by the commissioner to

1 consent to intervention by an insurer in any judicial or
2 administrative action in which the ~~National Association of~~
3 ~~Insurance Commissioners and its affiliates and subsidiaries~~
4 NAIC or a third-party consultant designated by the
5 commissioner may be required to disclose confidential
6 information about the insurer shared with the ~~National~~
7 ~~Association of Insurance Commissioners and its affiliates and~~
8 ~~subsidiaries~~ NAIC or a third-party consultant designated by
9 the commissioner pursuant to this chapter.

10 "e. Excluding documents, materials, or other
11 information reported pursuant to subdivision (3) of subsection
12 (1) of Section 27-29-4, prohibit the NAIC or third-party
13 consultant designated by the commissioner from storing the
14 information shared pursuant to this chapter in a permanent
15 database after the underlying analysis is completed.

16 "f. For documents, materials, or other information
17 reported pursuant to subdivision (3) of subsection (1) of
18 Section 27-29-4, in the case of an agreement involving a
19 third-party consultant, provide for notification of the
20 identity of the consultant to the applicable insurers.

21 "(d) The sharing of information by the commissioner
22 pursuant to this chapter shall not constitute a delegation of
23 regulatory authority or rulemaking, and the commissioner is
24 solely responsible for the administration, execution, and
25 enforcement of this chapter.

26 "(e) No waiver of any applicable privilege or claim
27 of confidentiality in the documents, materials, or information

1 shall occur as a result of disclosure to the commissioner
2 under this section or as a result of sharing as authorized in
3 subsection (c).

4 "(f) Documents, materials, or other information in
5 the possession or control of the ~~National Association of~~
6 ~~Insurance Commissioners~~ NAIC or a third-party consultant
7 designated by the commissioner pursuant to this chapter shall
8 be confidential by law and privileged, shall not be subject to
9 open records, freedom of information, sunshine or other public
10 records disclosure laws, shall not be subject to subpoena, and
11 shall not be subject to discovery or admissible in evidence in
12 any private civil action.

13 "(g) The group capital calculation and resulting
14 group capital ratio required under subdivision (2) of
15 subsection (1) of Section 27-29-4 and the liquidity stress
16 test along with its results and supporting disclosures
17 required under subdivision (3) of subsection (1) of Section
18 27-29-4 are regulatory tools for assessing group risks and
19 capital adequacy and group liquidity risks, respectively, and
20 are not intended as a means to rank insurers or insurance
21 holding company systems generally. Therefore, except as
22 otherwise may be required under the provisions of this
23 chapter, the making, publishing, disseminating, circulating,
24 or placing before the public, or causing directly or
25 indirectly to be made, published, disseminated, circulated, or
26 placed before the public in a newspaper, magazine, or other
27 publication, or in the form of a notice, circular, pamphlet,

1 letter, or poster, or over any radio or television station, or
2 any electronic means of communication available to the public,
3 or in any other way as an advertisement, announcement, or
4 statement containing a representation or statement with regard
5 to the group capital calculation, group capital ratio, the
6 liquidity stress test results, or supporting disclosures for
7 the liquidity stress test of any insurer or any insurer group,
8 or of any component derived in the calculation by any insurer,
9 broker, or other person engaged in any manner in the insurance
10 business would be misleading and is therefore prohibited;
11 provided, however, that if any materially false statement with
12 respect to the group capital calculation, resulting group
13 capital ratio, an inappropriate comparison of any amount to an
14 insurer's or insurance group's group capital calculation or
15 resulting group capital ratio, liquidity stress test result,
16 supporting disclosures for the liquidity stress test, or an
17 inappropriate comparison of any amount to an insurer's or
18 insurance group's liquidity stress test result or supporting
19 disclosures is published in any written publication and the
20 insurer is able to demonstrate to the commissioner with
21 substantial proof the falsity of such statement or the
22 inappropriateness, as the case may be, then the insurer may
23 publish announcements in a written publication if the sole
24 purpose of the announcement is to rebut the materially false
25 statement."

1 Section 2. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.