

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1222 Session of  
2022

INTRODUCED BY DiSANTO, STREET, PHILLIPS-HILL, CAPPELLETTI,  
PITTMAN, FONTANA AND KANE, MAY 16, 2022

REFERRED TO BANKING AND INSURANCE, MAY 16, 2022

AN ACT

1 Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An  
2 act relating to insurance; amending, revising, and  
3 consolidating the law providing for the incorporation of  
4 insurance companies, and the regulation, supervision, and  
5 protection of home and foreign insurance companies, Lloyds  
6 associations, reciprocal and inter-insurance exchanges, and  
7 fire insurance rating bureaus, and the regulation and  
8 supervision of insurance carried by such companies,  
9 associations, and exchanges, including insurance carried by  
10 the State Workmen's Insurance Fund; providing penalties; and  
11 repealing existing laws," in insurance holding companies,  
12 further providing for definitions, for acquisition of control  
13 of or merger or consolidation with domestic insurer and for  
14 registration of insurers, providing for group capital  
15 calculation exemptions, further providing for standards and  
16 management of an insurer within an insurance holding company  
17 system, for group-wide supervision for international  
18 insurance groups and for confidential treatment and providing  
19 for compliance with group capital calculation and liquidity  
20 stress test requirements.

21 The General Assembly of the Commonwealth of Pennsylvania  
22 hereby enacts as follows:

23 Section 1. Section 1401 of the act of May 17, 1921 (P.L.682,  
24 No.284), known as The Insurance Company Law of 1921, is amended  
25 by adding definitions to read:

26 Section 1401. Definitions.--As used in this article, and for  
27 the purposes of this article only, the following words and

1 phrases shall have the meanings given to them in this section:

2 \* \* \*

3 "Group-wide supervisor." The regulatory official authorized  
4 to engage in conducting and coordinating group-wide supervision  
5 activities who is determined or acknowledged by the department  
6 under section 1406.2 to have sufficient significant contacts  
7 with an internationally active insurance group.

8 \* \* \*

9 "Internationally active insurance group." An insurance  
10 holding company system that:

11 (1) Includes an insurer registered under section 1404.

12 (2) Meets each of the following criteria:

13 (i) Has premiums written in at least three countries.

14 (ii) Has as the percentage of the gross premiums written  
15 outside the United States at least ten per centum (10%) of the  
16 insurance holding company system's total gross written premiums.

17 (iii) Based on a three-year rolling average, has total  
18 assets of at least fifty billion dollars (\$50,000,000,000) or  
19 total gross written premiums of at least ten billion dollars  
20 (\$10,000,000,000).

21 "Lead state." The state responsible for coordination and  
22 communication among state regulators regarding oversight of an  
23 insurance group, as determined by the department in consultation  
24 with other regulators with domestic insurers in the insurance  
25 group.

26 \* \* \*

27 "NAIC liquidity stress test framework." A separate NAIC  
28 publication that includes the following information as adopted  
29 by the NAIC and as amended by the NAIC from time to time in  
30 accordance with the procedures adopted by the NAIC:

1 (1) A history of the NAIC's development of regulatory  
2 liquidation stress testing.

3 (2) The scope criteria applicable for a specific data year.

4 (3) The liquidity stress test instructions and reporting  
5 templates for a specific data year.

6 (4) The scope criteria, instructions and reporting  
7 templates.

8 \* \* \*

9 "Scope criteria." As detailed in the NAIC liquidity stress  
10 test framework, the designated exposure bases, along with  
11 minimum magnitudes, for the specified data year which are used  
12 to establish a preliminary list of insurers considered scoped  
13 into the NAIC liquidity stress test framework for that data  
14 year.

15 \* \* \*

16 Section 2. Sections 1402(b)(11.1) and 1404(a)(1), (d) and  
17 (k.1) of the act are amended to read:

18 Section 1402. Acquisition of Control of or Merger or  
19 Consolidation with Domestic Insurer.--\* \* \*

20 (b) The statement to be filed with the department under this  
21 section shall be made under oath or affirmation and shall  
22 contain the following information:

23 \* \* \*

24 (11.1) An agreement by the person required to file the  
25 statement referred to in subsection (a) that it will provide the  
26 annual enterprise risk report specified in section [1404(k.1)]  
27 1404(k.1)(1) as long as control exists.

28 \* \* \*

29 Section 1404. Registration of Insurers.--(a) (1) Every  
30 insurer which is authorized to do business in this Commonwealth

1 and which is a member of an insurance holding company system  
2 shall register with the department, except a foreign insurer  
3 subject to registration requirements and standards adopted by  
4 statute or regulation in the jurisdiction of its domicile which  
5 are substantially similar to those contained in this section and  
6 section 1405(a) (1) and (2), (b) and ~~[(d)]~~ (d) (1). Each  
7 registered insurer shall keep current the information required  
8 to be disclosed in its registration statement by reporting all  
9 material changes or additions within fifteen (15) days after the  
10 end of the month in which it learns of each such change or  
11 addition.

12 \* \* \*

13 (d) (1) No information need be disclosed on the  
14 registration statement filed pursuant to subsection (b) if such  
15 information is not material for the purposes of this section.

16 (2) Unless the department by regulation or order provides  
17 otherwise, sales, purchases, exchanges, loans or extensions of  
18 credit, investments or guarantees involving one-half of one per  
19 centum (0.5%) or less of an insurer's admitted assets as of the  
20 thirty-first day of December next preceding shall not be deemed  
21 material for purposes of this section.

22 (3) Paragraph (2) does not apply to the group capital  
23 calculation or the liquidity stress test framework.

24 \* \* \*

25 (k.1) (1) The ultimate controlling person of every insurer  
26 subject to registration shall also file an annual enterprise  
27 risk report. The report must, to the best of the ultimate  
28 controlling person's knowledge and belief, identify the material  
29 risks within the insurance holding company system that could  
30 pose enterprise risk to the insurer. The report must be filed

1 with the lead state regulator of the insurance holding company  
2 system as determined by the procedures within the Financial  
3 Analysis Handbook adopted by the NAIC. Beginning in 2014, and  
4 every year thereafter, the report shall be filed by March 31 for  
5 the previous calendar year.

6 (2) Except as provided in paragraph (3), the ultimate  
7 controlling person of every insurer subject to registration  
8 shall concurrently file with the registration an annual group  
9 capital calculation report as directed by the lead state  
10 regulator of the insurance holding company system. The report  
11 shall be completed in accordance with the NAIC group capital  
12 calculation instructions, which may permit the lead state  
13 regulator to allow a controlling person that is not the ultimate  
14 controlling person to file the group capital calculation. The  
15 report shall be filed with the lead state regulator of the  
16 insurance holding company system as directed by the commissioner  
17 in accordance with the procedures outlined in the Financial  
18 Analysis Handbook adopted by the NAIC.

19 (3) The following insurance holding company systems are not  
20 required to file the group capital calculation:

21 (i) An insurance holding company system that has only one  
22 insurer within the insurance holding company system structure,  
23 only writes business in a domestic state and is only licensed in  
24 a domestic state and assumes no business from any other insurer.

25 (ii) An insurance holding company system that is required to  
26 perform a group capital calculation specified by the Federal  
27 Reserve Board. The commissioner shall request the calculation  
28 from the Federal Reserve Board under the terms of information  
29 sharing agreements in effect. If the Federal Reserve Board  
30 cannot share the calculation with the commissioner, the

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

3 (iii) An insurance holding company system whose group-wide  
4 supervisor is located within a reciprocal jurisdiction as  
5 defined in section 319.3(k) that recognizes the United States'  
6 state regulatory approach to group supervision and group  
7 capital.

8 (iv) An insurance holding company system:

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

16 (B) Whose group-wide supervisor, located outside the United  
17 States and not in a reciprocal jurisdiction as defined in  
18 section 319.3(k), recognizes and accepts the group capital  
19 calculation as the worldwide group capital assessment for United  
20 States insurance groups who operate in that reciprocal  
21 jurisdiction.

22 (4) Notwithstanding paragraph (3)(iii) and (iv), the  
23 commissioner, as the lead state regulator, shall require the  
24 group capital calculation for United States based operations of  
25 any non-United-States-based insurance holding company system  
26 where, after necessary consultation with other supervisors or  
27 officials, the group capital calculation is deemed appropriate  
28 by the lead state regulator for prudential oversight and  
29 solvency monitoring purposes or for ensuring the competitiveness  
30 of the insurance marketplace.

1 (5) In addition to and notwithstanding the entities  
2 described in paragraph (3), the commissioner, as the lead state  
3 regulator, has the discretion to exempt the ultimate controlling  
4 person from filing the annual group capital calculation or  
5 accept a limited group capital filing or report in accordance  
6 with criteria specified in section 1404.1.

7 (6) If the commissioner, as the lead state regulator,  
8 determines that an insurance holding company system no longer  
9 meets one or more of the requirements of paragraph (3), the  
10 insurance holding company system shall file the group capital  
11 calculation at the next annual filing date unless given an  
12 extension by the lead state regulator based on reasonable  
13 grounds shown.

14 (7) The ultimate controlling person of an insurer subject to  
15 registration and also scoped into the NAIC liquidity stress test  
16 framework shall file the results of a specific year's liquidity  
17 stress test with the lead state regulator of the insurance  
18 holding company system in accordance with the procedures in the  
19 NAIC Financial Analysis Handbook and the following standards:

20 (i) With regard to the development of the NAIC liquidity  
21 stress test framework, the following standards are recognized:

22 (A) The NAIC liquidity stress test framework includes scope  
23 criteria applicable to a specific data year.

24 (B) The scope criteria are reviewed at least annually by the  
25 NAIC Financial Stability Task Force or its successor.

26 (C) Any change to the NAIC liquidity stress test framework  
27 or to the data year for which the scope criteria are to be  
28 measured shall be effective on January 1 of the year following  
29 the calendar year when the changes are adopted.

30 (D) Insurers meeting at least one threshold of the scope

1 criteria are considered scoped into the NAIC liquidity stress  
2 test framework for the specified data year unless the lead state  
3 regulator, in consultation with the NAIC Financial Stability  
4 Task Force or its successor, determines the insurer should not  
5 be scoped into the NAIC liquidity stress test framework for that  
6 data year.

7 (E) Insurers that do not trigger at least one threshold of  
8 the scope criteria are considered scoped out of the NAIC  
9 liquidity stress test framework for the specified data year,  
10 unless the lead state regulator, in consultation with the NAIC  
11 Financial Stability Task Force or its successor, determines the  
12 insurer should be scoped into the NAIC liquidity stress test  
13 framework for that data year.

14 (ii) The performance of, and filing of the results from, a  
15 specific year's NAIC liquidity stress test shall comply with the  
16 NAIC liquidity stress test framework's instructions and  
17 reporting templates for that year and, if applicable, with any  
18 determinations by the lead state regulator and the NAIC  
19 Financial Stability Task Force or its successor, provided within  
20 the NAIC liquidity stress test framework.

21 \* \* \*

22 Section 3. The act is amended by adding a section to read:

23 Section 1404.1. Group Capital Calculation Exemptions.--(a)  
24 The commissioner, as the lead state regulator, has the  
25 discretion to exempt the ultimate controlling person from filing  
26 the annual group capital calculation where the insurance holding  
27 company system meets all of the following criteria:

28 (1) Has annual direct written and unaffiliated assumed  
29 premium, including international direct and assumed premium, but  
30 excluding premiums reinsured with the Federal Crop Insurance



1 Corporation and Federal Flood Program, of less than one billion  
2 dollars (\$1,000,000,000).

3 (2) Has no insurers within the insurance holding company  
4 system that are domiciled outside of the United States or one of  
5 its territories.

6 (3) Has no banking, depository or other financial entity  
7 that is subject to an identified regulatory capital framework  
8 within the insurance holding company system.

9 (4) Attests that there have been no material changes in the  
10 transactions between insurers and noninsurers in the insurance  
11 holding company system during the last year.

12 (5) The noninsurers within the insurance holding company  
13 system do not pose a material financial risk to the insurer's  
14 ability to honor policyholder obligations.

15 (b) The commissioner, as the lead state regulator, has the  
16 discretion to accept a limited group capital filing in lieu of  
17 the group capital calculation if the insurance holding company  
18 system has annual direct written and unaffiliated assumed  
19 premiums, including international direct and assumed premiums,  
20 but excluding premiums reinsured with the Federal Crop Insurance  
21 Corporation and Federal Flood Program, of less than one billion  
22 dollars (\$1,000,000,000) and all of the following criteria are  
23 met:

24 (1) The insurance holding company system has no insurers  
25 that are domiciled outside of the United States or one of its  
26 territories.

27 (2) The insurance holding company system does not include a  
28 banking, depository or other financial entity that is subject to  
29 an identified regulatory capital framework.

30 (3) The insurance holding company system attests that there

1 have been no material changes in transactions between insurers  
2 and noninsurers in the group during the last year and the  
3 noninsurers within the insurance holding company system do not  
4 pose a material financial risk to the insurer's ability to honor  
5 policyholder obligations.

6 (c) For an insurance holding company system that has  
7 previously met an exemption with respect to the group capital  
8 calculation under subsections (a) and (b), the commissioner may  
9 at any time require, as the lead state regulator, the ultimate  
10 controlling person to file an annual group capital calculation,  
11 completed in accordance with the NAIC group capital calculation  
12 instructions if any of the following criteria are met:

13 (1) An insurer within the insurance holding company system  
14 is in a company action level event under Article V of the act of  
15 May 17, 1921 (P.L.789, No.285), known as "The Insurance  
16 Department Act of 1921," or a similar standard for an insurer  
17 outside the United States.

18 (2) An insurer within the insurance holding company system  
19 meets one or more of the standards of an insurer deemed to be in  
20 hazardous financial condition as described in Article V of "The  
21 Insurance Department Act of 1921," and 31 Pa. Code Ch. 160  
22 (relating to standards to define insurers deemed to be in  
23 hazardous financial condition).

24 (3) An insurer within the insurance holding company system  
25 otherwise exhibits qualities of a troubled insurer as determined  
26 by the lead state regulator based on unique circumstances,  
27 including the type and volume of business written, ownership and  
28 organizational structure, Federal agency requests and  
29 international supervisor requests.

30 (d) A jurisdiction outside the United States is considered

1 to recognize and accept the group capital calculation if it  
2 satisfies the following criteria:

3 (1) The jurisdiction meets the criteria under section  
4 1404(k.1)(3)(iv) in accordance with the following:

5 (i) The jurisdiction is located outside of the United States  
6 and recognizes the United States' state regulatory approach to  
7 group supervision and group capital by providing confirmation  
8 from a competent regulatory authority in the jurisdiction that  
9 insurers and insurance groups whose lead state is accredited by  
10 the NAIC under the NAIC Accreditation Program shall be subject  
11 only to worldwide prudential insurance group-wide supervision,  
12 including worldwide group governance, solvency and capital and  
13 reporting, as applicable, by the lead state and will not be  
14 subject to group-wide supervision, including worldwide group  
15 governance, solvency and capital and reporting, at the level of  
16 the worldwide parent undertaking of the insurance or reinsurance  
17 group by the jurisdiction located outside the United States.

18 (ii) If no United-States-based insurance groups operate in  
19 the jurisdiction outside the United States, that jurisdiction  
20 outside the United States notifies the lead state regulator in  
21 writing, with a copy to the IAIS, that the group capital  
22 calculation is an acceptable international capital standard. The  
23 notification shall serve as the confirmation required under  
24 subparagraph (i).

25 (2) The entities located outside the United States'  
26 jurisdiction provide confirmation by a competent regulatory  
27 authority in the jurisdiction under paragraph (1)(ii) that  
28 information regarding insurers and the parent, subsidiary or  
29 affiliated entities, if applicable, shall be provided to the  
30 lead state regulator in accordance with a memorandum of

1 understanding or similar document between the commissioner and  
2 the jurisdiction, including the IAIS multilateral memorandum of  
3 understanding or other multilateral memoranda of understanding  
4 coordinated by the NAIC. The commissioner shall determine, in  
5 consultation with the NAIC committee process, if the  
6 requirements of the information sharing agreements are in force.

7 (e) A list of jurisdictions outside the United States that  
8 recognize and accept the group capital calculation will be  
9 published through the NAIC committee process in accordance with  
10 the following standards:

11 (1) A list of jurisdictions that recognize and accept the  
12 group capital calculation under section 1404(k.1)(3)(iv), shall  
13 be published through the NAIC committee process to assist the  
14 lead state regulator in determining which insurers shall file an  
15 annual group capital calculation. The list must clarify those  
16 situations in which a jurisdiction is exempt from filing under  
17 section 1404(k.1)(3)(iv). To assist with a determination under  
18 section 1404(k.1)(3)(v), the list shall identify whether a  
19 jurisdiction that is exempt under section 1404(k.1)(3)(iii) or  
20 (iv) requires a group capital filing for any United-States-based  
21 insurance group's operations in a jurisdiction outside the  
22 United States.

23 (2) For a jurisdiction outside the United States that no  
24 United-States-based insurance group operates, the confirmation  
25 provided to meet the requirement of subsection (d)(1)(ii) will  
26 serve as support for a recommendation to be published as a  
27 jurisdiction that recognizes and accepts the group capital  
28 calculation through the NAIC committee process.

29 (3) If the commissioner, as the lead state regulator, makes  
30 a determination under section 1404(k.1)(3)(iv) that differs from

1 the NAIC list in paragraph (4), the lead state regulator shall  
2 provide documented justification to the NAIC and other states.

3 (4) Upon determination that a jurisdiction outside of the  
4 United States no longer meets one or more of the requirements to  
5 recognize and accept the group capital calculation, the  
6 commissioner, as the lead state regulator, may provide a  
7 recommendation to the NAIC that the jurisdiction outside the  
8 United States be removed from the list of jurisdictions that  
9 recognize and accept the group capital calculation.

10 Section 4. Section 1405(a)(1) of the act is amended by  
11 adding subparagraphs and the subsection is amended by adding a  
12 paragraph to read:

13 Section 1405. Standards and Management of an Insurer within  
14 an Insurance Holding Company System.--(a) (1) Transactions  
15 within an insurance holding company system to which an insurer  
16 subject to registration is a party shall be subject to all of  
17 the following standards:

18 \* \* \*

19 (vi) (A) If the commissioner deems an insurer subject to  
20 this act to be in hazardous financial condition, as determined  
21 by the commissioner under 31 Pa. Code Ch. 160 (relating to  
22 standards to define insurers deemed to be in hazardous financial  
23 condition) or a condition that would be grounds for supervision,  
24 conservation or a delinquency proceeding, the commissioner may  
25 require the insurer to secure and maintain a deposit, held by  
26 the commissioner, or a bond, as determined by the insurer at the  
27 insurer's discretion, for the protection of the insurer for the  
28 duration of the contract or agreement, or the existence of the  
29 condition for which the commissioner required the deposit or  
30 bond. In determining whether a deposit or bond is required, the

1 commissioner may consider whether concerns exist with respect to  
2 the affiliated person's ability to fulfill the contract or  
3 agreement if the insurer were to be put into liquidation.

4 (B) If the insurer is deemed to be in a hazardous financial  
5 condition or a condition that would be grounds for supervision,  
6 conservation or a delinquency proceeding, and a deposit or bond  
7 is necessary, the commissioner has discretion to determine the  
8 amount of the deposit or bond, not to exceed the value of the  
9 contract or agreement in any one year, and whether the deposit  
10 or bond should be required for a single contract, multiple  
11 contracts or a contract only with a specific person.

12 (vii) (A) All records and data of the insurer held by an  
13 affiliate are and remain the property of the insurer, are  
14 subject to control of the insurer, are identifiable, and are  
15 segregated or readily capable of segregation, at no additional  
16 cost to the insurer, from all other persons' records and data.

17 (B) Records and data under clause (A) include all records  
18 and data that are otherwise the property of the insurer, in  
19 whatever form maintained, including claims and claim files,  
20 policyholder lists, application files, litigation files, premium  
21 records, rate books, underwriting manuals, personnel records,  
22 financial records or similar records within the possession,  
23 custody or control of the affiliate.

24 (C) At the request of the insurer, the affiliate shall  
25 advise that the receiver may obtain a complete set of all  
26 records of any type that pertain to the insurer's business,  
27 obtain access to the operating systems on which the data is  
28 maintained, obtain the software that runs those systems either  
29 through assumption of licensing agreements or otherwise and  
30 restrict the use of the data by the affiliate if it is not

1 operating the insurer's business.

2 (D) The affiliate shall provide a waiver of any landlord  
3 lien or other encumbrance to give the insurer access to all  
4 records and data in the event of the affiliate's default under a  
5 lease or other agreement.

6 (viii) Premiums or other funds belonging to the insurer that  
7 are collected by or held by an affiliate are the exclusive  
8 property of the insurer and are subject to the control of the  
9 insurer. Any right of offset in the event an insurer is placed  
10 into receivership shall be subject to Article V of the act of  
11 May 17, 1921 (P.L.789, No.285), known as "The Insurance  
12 Department Act of 1921."

13 \* \* \*

14 (6) Supervision, seizure, conservatorship or receivership  
15 proceedings. The following shall apply:

16 (i) An affiliate that is party to an agreement or contract  
17 with a domestic insurer that is subject to section 1405(a)(2)(v)  
18 shall be subject to the jurisdiction of any supervision,  
19 seizure, conservatorship or receivership proceedings against the  
20 insurer and to the authority of any supervisor, conservator,  
21 rehabilitator or liquidator for the insurer appointed pursuant  
22 to supervision and receivership acts for the purpose of  
23 interpreting, enforcing and overseeing the affiliate's  
24 obligations under the agreement or contract to perform services  
25 for the insurer that:

26 (A) are an integral part of the insurer's operations,  
27 including management, administrative, accounting, data  
28 processing, marketing, underwriting, claims handling, investment  
29 or any other similar functions; or

30 (B) are essential to the insurer's ability to fulfill its

1 obligations under insurance policies.

2 (ii) The commissioner may require that an agreement or  
3 contract under subsection (a) (2) (v) for the provision of  
4 services under clauses (A) and (B) specify that the affiliate  
5 consents to the jurisdiction under this paragraph.

6 \* \* \*

7 Section 5. Sections 1406.2(j) and 1407 of the act are  
8 amended to read:

9 Section 1406.2. Group-wide Supervision for International  
10 Insurance Groups.--\* \* \*

11 [(j) As used in this section, the following words and  
12 phrases shall have the meanings given to them in this subsection  
13 unless the context clearly indicates otherwise:

14 "Group-wide supervisor." The chief insurance regulatory  
15 official authorized to engage in conducting and coordinating  
16 group-wide supervision activities who is from the jurisdiction  
17 determined or acknowledged by the department under subsection  
18 (c) to have sufficient significant contacts with the  
19 international insurance group.

20 "International insurance group." An insurance group  
21 operating internationally that includes an insurer registered  
22 under section 1404.]

23 Section 1407. Confidential Treatment.--(a) All information,  
24 documents, materials and copies thereof in the possession or  
25 control of the department that are produced by, obtained by or  
26 disclosed to the department or any other person in the course of  
27 an examination or investigation made pursuant to section 1406 or  
28 investigation made pursuant to section 1406.1 or 1406.2 and all  
29 information reported pursuant to sections 1402(b) (11.1) and  
30 (11.2), 1404 and 1405 are recognized as being proprietary and



1 constituting intellectual property, and shall be privileged and  
2 given confidential treatment and shall not be:

3 (1) Subject to discovery or admissible in evidence in a  
4 private civil action.

5 (2) Subject to subpoena.

6 (3) Subject to the act of February 14, 2008 (P.L.6, No.3),  
7 known as the "Right-to-Know Law."

8 (4) Made public by the department or any other person,  
9 except to regulatory or law enforcement officials of other  
10 jurisdictions or group supervisors or members of a supervisory  
11 college in accordance with subsection (c), without the prior  
12 written consent of the insurer to which it pertains unless the  
13 department, after giving the insurer and its affiliates who  
14 would be affected thereby notice and opportunity to be heard,  
15 determines that the interest of policyholders, shareholders or  
16 the public will be served by the publication thereof, in which  
17 event it may publish all or any part thereof in such manner as  
18 it may deem appropriate.

19 (a.1) For purposes of the information reported and provided  
20 to the department under section 1404(k.1)(2), the commissioner  
21 shall maintain the confidentiality of the group capital  
22 calculation report and supporting disclosures and any group  
23 capital information received from an insurance holding company  
24 system supervised by the Federal Reserve Board or any United  
25 States group-wide supervisor.

26 (a.2) For purposes of the information reported and provided  
27 to the department under section 1404(k.1)(6), the commissioner  
28 shall maintain the confidentiality of the liquidity stress test  
29 results and supporting disclosures and any liquidity stress test  
30 information received from an insurance holding company system

1 supervised by the Federal Reserve Board and and a group-wide  
2 supervisor located outside the United States.

3 (b) The commissioner, department or any individual or person  
4 who receives documents, materials or other information while  
5 acting under the authority of the commissioner or department or  
6 with whom such documents, materials or other information are  
7 shared under this article shall not be permitted or required to  
8 testify in any private civil action concerning any confidential  
9 documents, materials or information covered under this section.

10 (c) In order to assist in the performance of its duties, the  
11 department may do any of the following:

12 (1) Share confidential and privileged documents, materials  
13 or other information covered under this section, including  
14 proprietary and intellectual property, documents, materials and  
15 information, with regulatory or law enforcement officials of  
16 this Commonwealth or other jurisdictions, the IAIS, the NAIC and  
17 its affiliates and subsidiaries, group supervisors and members  
18 of any supervisory college under section 1406.1, and any third  
19 party consultants retained by the commissioner, enforcement  
20 officials, the IAIS, the NAIC, group-wide supervisor or members  
21 of a supervisory college, provided that prior to receiving the  
22 documents, materials or other information, the recipient  
23 demonstrates by written statement the necessary authority and  
24 intent to provide the same confidential treatment to the  
25 documents, materials and information as required by this  
26 article. The department may only share confidential and  
27 privileged documents, materials or information reported under  
28 section 1404(k.1) with state insurance regulators having  
29 statutes or regulations substantially similar to subsection (a)  
30 and who have agreed in writing not to disclose such confidential

1 and privileged documents, materials and information.

2 (2) Receive and maintain as confidential and privileged any  
3 documents, materials or other information, including proprietary  
4 and intellectual property, documents materials and information,  
5 from the IAIS or the NAIC and its affiliates and subsidiaries or  
6 from regulatory and law enforcement officials of this  
7 Commonwealth or other jurisdictions in which the documents,  
8 materials or other information are confidential by law in those  
9 jurisdictions. Documents, materials or other information  
10 obtained under this section shall be given confidential  
11 treatment, may not be subject to subpoena and may not be made  
12 public by the department, commissioner or any other person.

13 (d) The department shall enter into written agreements with  
14 the IAIS or the NAIC and any third-party consultant retained by  
15 the commissioner, the IAIS or the NAIC governing the sharing and  
16 use of information provided under this article, that include all  
17 of the following:

18 (1) Specific procedures and protocols regarding the  
19 confidentiality and security of information shared with the IAIS  
20 or the NAIC [and its affiliates and subsidiaries] or a third-  
21 party consultant retained by the commissioner, the IAIS or the  
22 NAIC under this article, including procedures and protocols for  
23 sharing by the IAIS or the NAIC or a third-party consultant  
24 retained by the commissioner, the IAIS or the NAIC with other  
25 Federal, state or international regulators. The agreement shall  
26 provide that the recipient agrees in writing to maintain the  
27 confidentiality and privileged status of the documents,  
28 materials or other information and has verified in writing the  
29 legal authority to maintain the confidentiality.

30 (2) Provisions specifying that ownership of information

1 shared with the IAIS or the NAIC [and its affiliates and  
2 subsidiaries] or a third-party consultant under this article  
3 remains with the department and that the use of the information  
4 by the IAIS or the NAIC or a third-party consultant retained by  
5 the commissioner, the IAIS or the NAIC is subject to the  
6 approval of the department.

7 (2.1) A provision specifying that, with the exception of  
8 documents, material or information under section 1404(k.1)(6),  
9 the NAIC, or a third-party consultant under this article, is  
10 prohibited from storing information shared under this article in  
11 a permanent database after the underlying analysis is completed.

12 (3) A provision providing that the IAIS or the NAIC and its  
13 affiliates and subsidiaries, or a third-party consultant under  
14 this article, will, where permitted by law, give prompt notice  
15 to the department and the insurer regarding any subpoena,  
16 request for disclosure or request for production of the  
17 insurer's confidential information in the possession of the IAIS  
18 or the NAIC or a third-party consultant under this article.

19 (4) A requirement that the IAIS or the NAIC and its  
20 affiliates and subsidiaries, or a third-party consultant under  
21 this article, will consent to intervention by an insurer in any  
22 judicial or administrative action in which the IAIS or the NAIC  
23 and its affiliates and subsidiaries, or a third-party consultant  
24 under this article may be required to disclose confidential  
25 information about the insurer that was shared with the IAIS or  
26 the NAIC and its affiliates and subsidiaries, or a third-party  
27 consultant under this article.

28 (5) For documents, materials or information reporting under  
29 section 1404(k.1)(6), in the case of an agreement involving a  
30 third party consultant, a provision for the notification of the

1 identity of the consultant to the department and applicable  
2 insurers.

3 (e) The sharing of information by the department under this  
4 article shall not constitute a delegation of regulatory  
5 authority or rulemaking.

6 (f) The department is solely responsible for the  
7 administration, execution and enforcement of the provisions of  
8 this article.

9 (g) The sharing of information by the department as  
10 authorized by subsection (c) shall not constitute a waiver of  
11 any applicable privilege or claim of confidentiality in the  
12 documents, materials or information.

13 (h) Documents, materials or other information in the  
14 possession or control of the IAIS or the NAIC or a third-party  
15 consultant as provided under this article shall:

16 (1) Be confidential and privileged.

17 (2) Not be subject to the "Right-to-Know Law."

18 (3) Not be subject to subpoena.

19 (4) Not be subject to discovery or admissible in evidence in  
20 any private civil action.

21 (i) The group capital calculation results and supporting  
22 disclosures and any group capital calculation information  
23 required under section 1404(k.1)(2) and the liquidity stress  
24 test results and supporting disclosures and any liquidity stress  
25 test information required under section 1404(k.1)(7) are  
26 regulatory tools for assessing group capital adequacy, group  
27 liquidity and associated risks. These tools are not intended as  
28 a means to rank insurers or insurance holding company systems  
29 generally and will be used in accordance with the following  
30 standards:

1 (1) Except as otherwise required under this article,  
2 directly or indirectly, making, publishing, disseminating,  
3 circulating or placing before the public in a newspaper,  
4 magazine or other publication, or in the form of a notice,  
5 circular, pamphlet, letter or poster, or over any radio or  
6 television station or any electronic means of communication  
7 available to the public, or in any other way as an  
8 advertisement, announcement or statement containing, a  
9 representation or statement with regard to the group capital  
10 calculation results, the liquidity stress test results and  
11 associated supporting disclosures and information of any insurer  
12 or any insurer group, or of any component derived in the  
13 calculation by any insurer, broker, or other person engaged in  
14 any manner in the insurance business, is misleading and  
15 prohibited.

16 (2) If any materially false statement with respect to the  
17 group capital calculation, resulting group capital ratio, an  
18 inappropriate comparison of any amount to an insurer's or  
19 insurance group's group capital calculation or resulting group  
20 capital ratio, liquidity stress test result, supporting  
21 disclosures for the liquidity stress test or an inappropriate  
22 comparison of any amount to an insurer's or insurance group's  
23 liquidity stress test result or supporting disclosures is  
24 published in any written publication and the insurer is able to  
25 demonstrate to the commissioner with substantial proof the  
26 falsity of such statement or the inappropriateness, as the case  
27 may be, then the insurer may publish announcements in any  
28 written publication if the sole purpose of the announcement is  
29 to rebut the materially false statement.

30 Section 6. The act is amended by adding a section to read:

1 Section 1414. Compliance with Group Capital Calculation and  
2 Liquidity Stress Test Requirements.--(a) An insurer that is  
3 part of an internationally active insurance group shall comply  
4 with the requirement to file a group capital calculation report  
5 under section 1404(k.1)(2) upon the effective date of this  
6 section. All other insurers shall comply with the requirement to  
7 file a group capital calculation no later than January 1, 2026.

8 (b) An insurer shall be subject to the liquidity stress test  
9 requirements of section 1404(k.1)(7) on January 1, 2023.

10 Section 7. This act shall take effect in 60 days.