

2015 Regular Session

HOUSE BILL NO. 255

BY REPRESENTATIVE PIERRE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

INSURANCE COMMISSIONER: Provides relative to the authority of the commissioner of insurance to supervise insurance holding company systems

1 AN ACT

2 To amend and reenact R.S. 22:691.10(A) and 691.13(A) and R.S. 44:4.1(B)(11) and to enact
3 R.S. 22:691.2(11) and (12), 691.9.1, and Subpart G-2 of Part III of Chapter 2 of Title
4 22 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 22:691.31
5 through 691.39, relative to supervision of insurance holding company systems,
6 including risk management and corporate governance, by the commissioner of
7 insurance; to provide with respect to the authority of the commissioner to determine
8 or acknowledge a group supervisor for internationally active insurance groups; to
9 provide for the authority of the commissioner to require own risk and solvency
10 assessments; to provide for confidentiality of information; to provide for sanctions
11 for noncompliance; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 22:691.10(A) and 691.13(A) are hereby amended and reenacted and
14 R.S. 22:691.2(11) and (12), 691.9.1, and Subpart G-2 of Part III of Chapter 2 of Title 22 of
15 the Louisiana Revised Statutes of 1950, comprised of R.S. 22:691.31 through 691.39, are
16 hereby enacted to read as follows:

17 §691.2. Definitions

18 As used in this Subpart, the following terms shall have these meanings unless
19 the context shall otherwise require:

20 * * *

1 (11) "Group-wide supervisor" means the regulatory official authorized to
2 engage in conducting and coordinating group-wide supervision activities who is
3 determined or acknowledged by the commissioner pursuant to R.S. 22:691.9.1 to
4 have sufficient significant contacts with the internationally active insurance group.

5 (12) "Internationally active insurance group" means an insurance holding
6 company system that:

7 (a) Includes an insurer registered pursuant to R.S. 22:691.6.

8 (b) Meets the following criteria:

9 (i) Premiums are written in at least three countries.

10 (ii) The percentage of gross premiums written outside the United States is
11 at least ten percent of the insurance holding company system's total gross written
12 premiums.

13 (iii) Based on a three-year rolling average, the total assets of the insurance
14 holding company system are at least fifty billion dollars or the total gross written
15 premiums of the insurance holding company system are at least ten billion dollars.

16 * * *

17 §691.9.1. Group-wide supervision of internationally active insurance groups

18 A. The commissioner may act as the group-wide supervisor for any
19 internationally active insurance group pursuant to this Section. An insurance holding
20 company system that does not otherwise qualify as an internationally active
21 insurance group may request that the commissioner make a determination or
22 acknowledgment as to its group-wide supervisor pursuant to this Section. When one
23 of the following applies, the commissioner may acknowledge another regulatory
24 official as the group-wide supervisor when the internationally active insurance
25 group:

26 (1) Does not have substantial insurance operations in the United States.

27 (2) Has substantial insurance operations in the United States but not in this
28 state.

1 (3) Has substantial insurance operations in the United States and this state
2 but the commissioner has determined pursuant to the factors set forth in Subsections
3 B and F of this Section that the other regulatory official is the appropriate
4 group-wide supervisor.

5 B. In cooperation with other state, federal, and international regulatory
6 agencies, the commissioner shall identify a single group-wide supervisor for an
7 internationally active insurance group. A commissioner identified under this Section
8 as the group-wide supervisor may determine that it is appropriate to acknowledge
9 another supervisor to serve as the group-wide supervisor. The acknowledgment of
10 the group-wide supervisor shall be made after consideration of the factors specified
11 in Paragraphs (1) through (5) of this Subsection and shall be made in cooperation
12 with and subject to the acknowledgment of other regulatory officials involved with
13 supervision of members of the internationally active insurance group, and in
14 consultation with the internationally active insurance group. The commissioner shall
15 consider the following factors and the relative scale of each when making a
16 determination or acknowledgment pursuant to this Subsection:

17 (1) The place of domicile of the insurers within the internationally active
18 insurance group that hold the largest share of the group's written premiums, assets,
19 or liabilities.

20 (2) The place of domicile of the top-tiered insurer or insurers in the insurance
21 holding company system of the internationally active insurance group.

22 (3) The location of the executive offices or largest operational offices of the
23 internationally active insurance group.

24 (4) Whether another regulatory official is acting or is seeking to act as the
25 group-wide supervisor under a regulatory system that the commissioner determines
26 to be one of the following:

27 (a) Substantially similar to the system of regulation provided pursuant to the
28 laws of this state.

1 **(b) Otherwise sufficient in terms of providing for group-wide supervision,**
2 **enterprise risk analysis, and cooperation with other regulatory officials.**

3 **(5) Whether another regulatory official acting or seeking to act as the**
4 **group-wide supervisor provides the commissioner with reasonably reciprocal**
5 **recognition and cooperation.**

6 **C. Notwithstanding any other provision of law, when another regulatory**
7 **official is acting as the group-wide supervisor of an internationally active insurance**
8 **group, the commissioner shall acknowledge that regulatory official as the**
9 **group-wide supervisor. However, the commissioner shall make a determination or**
10 **acknowledgment pursuant to Subsection B of this Section in the event of material**
11 **change in the internationally active insurance group that results in one of the**
12 **following:**

13 **(1) The internationally active insurance group's insurers domiciled in this**
14 **state holding the largest share of the group's premiums, assets, or liabilities.**

15 **(2) This state being the place of domicile of the top-tiered insurer or insurers**
16 **in the insurance holding company system of the internationally active insurance**
17 **group.**

18 **D. Pursuant to R.S. 22:691.8, the commissioner is authorized to collect from**
19 **any insurer registered pursuant to R.S. 22:691.6 all information necessary to**
20 **determine whether the commissioner may act as the group-wide supervisor of an**
21 **internationally active insurance group or if the commissioner may acknowledge**
22 **another regulatory official to act as the group-wide supervisor. Prior to a**
23 **determination that an internationally active insurance group is subject to group-wide**
24 **supervision, the commissioner shall notify the insurer registered pursuant to R.S.**
25 **22:691.6 and the ultimate controlling person within the internationally active**
26 **insurance group. The internationally active insurance group shall have not less than**
27 **thirty days to provide the commissioner with additional information pertinent to the**
28 **pending determination. The commissioner shall publish in the Louisiana Register**
29 **and on the internet website of the Department of Insurance the identity of**

1 internationally active insurance groups that the commissioner has determined are
2 subject to group-wide supervision by the commissioner.

3 E. If the commissioner is the group-wide supervisor for an internationally
4 active insurance group, the commissioner may engage in any of the following
5 group-wide supervision activities:

6 (1) Assess the enterprise risk within the internationally active insurance
7 group to ensure that both of the following conditions are met:

8 (a) The material financial condition and liquidity risks to the members of the
9 internationally active insurance group that are engaged in the business of insurance
10 are identified by management.

11 (b) Reasonable and effective mitigation measures are in place.

12 (2) Request, from any member of an internationally active insurance group
13 subject to the commissioner's supervision, information necessary and appropriate to
14 assess enterprise risk, including but not limited to information about the members of
15 the internationally active insurance group regarding:

16 (a) Governance, risk assessment, and management.

17 (b) Capital adequacy.

18 (c) Material intercompany transactions.

19 (3) Coordinate and, through the authority of the regulatory officials of the
20 jurisdictions where members of the internationally active insurance group are
21 domiciled, compel development and implementation of reasonable measures
22 designed to ensure that the internationally active insurance group is able to timely
23 recognize and mitigate enterprise risk to members of such internationally active
24 insurance groups that are engaged in the business of insurance.

25 (4) Communicate with other state, federal, and international regulatory
26 agencies for members within the internationally active insurance group and share
27 relevant information subject to the confidentiality provisions of R.S. 22:691.10
28 through supervisory colleges as set forth in R.S. 22:691.9.

1 (5) Enter into agreements with or obtain documentation from any insurer
2 registered pursuant to R.S. 22:691.6, any member of the internationally active
3 insurance group, and any other state, federal, and international regulatory agencies
4 for members of the internationally active insurance group, providing the basis for or
5 otherwise clarifying the commissioner's role as group-wide supervisor, including
6 provisions for resolving disputes with other regulatory officials. Such agreements or
7 documentation shall not serve as evidence in any proceeding that any insurer or
8 person within an insurance holding company system not domiciled or incorporated
9 in this state is doing business in this state or is otherwise subject to jurisdiction in
10 this state.

11 (6) Other group-wide supervision activities, consistent with the authorities
12 and purposes enumerated in this Subsection, as considered necessary by the
13 commissioner.

14 F. If the commissioner acknowledges that another chief insurance regulatory
15 official from a jurisdiction that is not accredited by the NAIC is the group-wide
16 supervisor, the commissioner may reasonably cooperate, through supervisory
17 colleges or otherwise, with group-wide supervision undertaken by the group-wide
18 supervisor, provided that both of the following conditions are met:

19 (1) The commissioner's cooperation is in compliance with the laws of this
20 state.

21 (2) The regulatory official acknowledged as the group-wide supervisor also
22 recognizes and cooperates with the commissioner's activities as a group-wide
23 supervisor for other internationally active insurance groups where applicable. When
24 such recognition and cooperation is not reasonably reciprocal, the commissioner may
25 refuse recognition and cooperation.

26 G. The commissioner may enter into agreements with or obtain
27 documentation from any insurer registered pursuant to R.S. 22:691.6, any affiliate
28 of the insurer, and other state, federal, and international regulatory agencies for

1 members of the internationally active insurance group, which provide the basis for
2 or otherwise clarify a regulatory official's role as group-wide supervisor.

3 H. The commissioner may promulgate rules and regulations necessary for
4 the administration of this Section.

5 I. A registered insurer subject to this Section shall be liable for and shall pay
6 the reasonable expenses of the commissioner's participation in the administration of
7 this Section, including the engagement of attorneys, actuaries, and any other
8 professionals and all reasonable travel expenses.

9 §691.10. Confidential treatment

10 A. Documents, materials, or other information in the possession or control
11 of the Department of Insurance that are obtained by or disclosed to the commissioner
12 or any other person in the course of an examination or investigation made pursuant
13 to R.S. 22:691.8 and all information reported or provided to the commissioner
14 pursuant to R.S. 22:691.4(B)(12) and (13), 691.6, ~~and 691.7,~~ and 691.9.1 shall be
15 confidential by law and privileged, shall not be subject to subpoena, and shall not be
16 subject to discovery or admissible in evidence in any private civil action. However,
17 the commissioner is authorized to use the documents, materials, or other information
18 in the furtherance of any regulatory or legal action brought as a part of the
19 commissioner's official duties. The commissioner shall not otherwise make the
20 documents, materials, or other information public without the prior written consent
21 of the insurer to which it pertains unless the commissioner, after giving the insurer
22 and its affiliates who would be affected thereby notice and opportunity to be heard,
23 determines that the interest of policyholders, shareholders, or the public will be
24 served by the publication thereof, in which event the commissioner may publish all
25 or any part in such manner as may be deemed appropriate.

26 * * *

1 §691.13. Sanctions

2 A. Except as provided in R.S. 22:691.5(E)(3), any insurer failing, without
3 just cause, to file any registration statement as required in this Subpart shall be
4 required, after notice and ~~hearing~~, an opportunity to be heard, to pay a penalty of one
5 hundred dollars for each day's delay, to be recovered by the commissioner of
6 insurance and the penalty so recovered shall be ~~paid into the general revenue fund~~
7 ~~of this state.~~ deposited upon receipt in the state treasury. The maximum penalty
8 under this Section is ten thousand dollars. The commissioner may reduce the penalty
9 if the insurer demonstrates to the commissioner that the imposition of the penalty
10 would constitute a financial hardship to the insurer.

11 * * *

12 SUBPART G-2. RISK MANAGEMENT AND OWN RISK13 AND SOLVENCY ASSESSMENT14 §691.31. Purpose and scope

15 A. The purpose of this Subpart is to provide the requirements for maintaining
16 a risk management framework and completing an own risk and solvency assessment
17 (ORSA) and the guidance and instructions for filing an ORSA summary report with
18 the commissioner.

19 B. The requirements of this Subpart shall apply to all domestic insurers
20 unless exempt pursuant to R.S. 22:691.36.

21 C. The legislature finds and declares that the ORSA summary report will
22 contain confidential and sensitive information related to the identification of risk
23 material and relevant to the insurer or insurance group filing the report. Public
24 disclosure of the information in the ORSA summary report will cause harm to and
25 competitive disadvantage for the insurer or insurance group. The legislature intends
26 that the ORSA summary report be filed with the commissioner as a confidential
27 document, shared only as stated in this Subpart to assist in the performance of the
28 commissioner's duties, and exempted from public disclosure.

1 §691.32. Definitions

2 For purposes of this Subpart:

3 (1) "Insurance group" means, for the purpose of conducting an ORSA, those
4 insurers and affiliates included within an insurance holding company system as
5 defined in R.S. 22:691.2(5).

6 (2) "Insurer" means an insurer as defined in R.S. 22:46 except that it shall
7 not include agencies, authorities, or instrumentalities of the United States, its
8 possessions and territories, the Commonwealth of Puerto Rico, the District of
9 Columbia, or a state or political subdivision of a state.

10 (3) "NAIC" means the National Association of Insurance Commissioners.

11 (4) "Own risk and solvency assessment" or "ORSA" means a confidential
12 internal assessment, appropriate to the nature, scale, and complexity of an insurer or
13 insurance group, conducted by that insurer or insurance group of the material and
14 relevant risks associated with the insurer's or insurance group's current business plan,
15 and the sufficiency of capital resources to support those risks.

16 (5) "ORSA Guidance Manual" means the current version of the "Own Risk
17 and Solvency Assessment Guidance Manual" developed and adopted by the NAIC
18 and as amended from time to time. A change in the ORSA Guidance Manual shall
19 become effective on January first following the calendar year in which the changes
20 are adopted by the NAIC.

21 (6) "ORSA summary report" means a confidential high-level summary of an
22 insurer's or insurance group's ORSA.

23 §691.33. Risk management framework

24 An insurer shall maintain a risk management framework to assist the insurer
25 with identifying, assessing, monitoring, managing, and reporting on its material and
26 relevant risks. This requirement may be satisfied if the insurance group of which it
27 is a member maintains a risk management framework applicable to the operations
28 of the insurer.

1 §691.34. ORSA requirement

2 Subject to R.S. 22:691.36, an insurer, or the insurance group of which it is
3 a member, shall regularly conduct an ORSA consistent with the ORSA Guidance
4 Manual. An insurer, or the insurance group of which it is a member, shall conduct
5 the ORSA no less than annually and any time there are significant changes to the risk
6 profile of the insurer or the insurance group of which it is a member.

7 §691.35. ORSA summary report

8 A. Upon the commissioner's request, and no more than once each year, an
9 insurer shall submit to the commissioner an ORSA summary report or any
10 combination of reports that together contain the information described in the ORSA
11 Guidance Manual, applicable to the insurer, the insurance group of which it is a
12 member, or both. Notwithstanding any request from the commissioner, if the insurer
13 is a member of an insurance group, the insurer shall submit the report required by
14 this Subsection if the commissioner is the lead state commissioner of the insurance
15 group as determined by the procedures within the Financial Analysis Handbook
16 adopted by the National Association of Insurance Commissioners.

17 B. The report shall include a signature and an attestation based on the
18 knowledge, information, and belief of the insurer or insurance group's chief risk
19 officer or other executive having responsibility for the oversight of the insurer's
20 enterprise risk management process that the insurer applies the enterprise risk
21 management process described in the ORSA summary report and that a copy of the
22 report has been provided to the insurer's board of directors or the appropriate
23 committee of such board.

24 C. An insurer may comply with Subsection A of this Section by providing
25 the most recent and substantially similar report provided by the insurer or another
26 member of an insurance group of which it is a member to the commissioner of
27 another state or to a supervisor or regulator of a foreign jurisdiction, if that report
28 provides information that is comparable to the information described in the ORSA

1 Guidance Manual. Any such report in a language other than English must be
2 accompanied by a translation of that report into the English language.

3 §691.36. Exemption

4 A. An insurer shall be exempt from the requirements of this Subpart, if both
5 of the following apply:

6 (1) The insurer has annual direct written and unaffiliated assumed premium,
7 including international direct and assumed premium but excluding premiums
8 reinsured with the Federal Crop Insurance Corporation and National Flood
9 Insurance Program, less than five hundred million dollars.

10 (2) The insurance group of which the insurer is a member has annual direct
11 written and unaffiliated assumed premium, including international direct and
12 assumed premium but excluding premiums reinsured with the Federal Crop
13 Insurance Corporation and National Flood Insurance Program, less than one billion
14 dollars.

15 B. If an insurer qualifies for exemption pursuant to Paragraph (1) of
16 Subsection A of this Section, but the insurance group of which it is a member does
17 not qualify for exemption pursuant to Paragraph (2) of Subsection A of this Section,
18 the ORSA summary report that may be required pursuant to R.S. 22:691.35 shall
19 include every insurer within the insurance group. This requirement may be satisfied
20 by the submission of more than one ORSA summary report for any combination of
21 insurers provided any combination of reports includes every insurer within the
22 insurance group.

23 C. If an insurer does not qualify for exemption pursuant to Paragraph (1) of
24 Subsection A of this Section, but the insurance group of which it is a member
25 qualifies for exemption pursuant to Paragraph (2) of Subsection A of this Section,
26 then the only ORSA summary report that may be required pursuant to R.S. 22:691.35
27 shall be the report applicable to that insurer.

28 D. An insurer that does not qualify for exemption pursuant to Subsection A
29 of this Section may apply to the commissioner for a waiver from the requirements

1 of this Subpart based upon unique circumstances. In deciding whether to grant the
2 insurer's request for waiver, the commissioner may consider the type and volume of
3 business written, ownership, and organizational structure, and any other factor the
4 commissioner considers relevant to the insurer or insurance group of which it is a
5 member. If the insurer is part of an insurance group with insurers domiciled in more
6 than one state, the commissioner shall coordinate with the lead state commissioner
7 and with the other domiciliary commissioners in considering whether to grant the
8 insurer's request for a waiver.

9 E. Notwithstanding the exemptions stated in this Section:

10 (1) The commissioner may require that an insurer maintain a risk
11 management framework, conduct an ORSA, and file an ORSA summary report
12 based on unique circumstances, including but not limited to the type and volume of
13 business written, ownership, and organizational structure, federal agency requests,
14 and international supervisor requests.

15 (2) The commissioner may require that an insurer maintain a risk
16 management framework, conduct an ORSA, and file an ORSA summary report if the
17 insurer has a risk-based capital company-action level event as set forth in R.S.
18 22:611 et seq. or 631 et seq., meets one or more of the standards of an insurer
19 deemed to be in hazardous financial condition as defined in regulations promulgated
20 by the commissioner, or otherwise exhibits qualities of a troubled insurer as
21 determined by the commissioner.

22 F. If an insurer ceases to qualify for an exemption pursuant to Subsection A
23 of this Section due to changes in premium as reflected in the insurer's most recent
24 annual statement or in the most recent annual statements of the insurers within the
25 insurance group of which it is a member, the insurer shall have one year following
26 the year the premium threshold is exceeded to comply with the requirements of this
27 Subpart.

1 §691.37. Contents of ORSA summary report

2 A. The ORSA summary report shall be prepared consistent with the ORSA
3 Guidance Manual, subject to the requirements of Subsection B of this Section.
4 Documentation and supporting information shall be maintained and made available
5 upon examination by or request of the commissioner.

6 B. The review of the ORSA summary report, and any additional requests for
7 information, shall be made using similar procedures currently used in the analysis
8 and examination of multistate or global insurers and insurance groups.

9 §691.38. Confidentiality

10 A. Documents, materials, or other information, including the ORSA
11 summary report, in the possession or control of the commissioner that are obtained
12 by, created by, or disclosed to the commissioner or any other person pursuant to this
13 Subpart are proprietary and contain trade secrets. All such documents, materials, or
14 other information shall be confidential and privileged, shall not be subject to
15 disclosure under the Public Records Law, shall not be subject to subpoena, and shall
16 not be subject to discovery or admissible in evidence in any private civil action.
17 However, the commissioner may use the documents, materials, or other information
18 in the furtherance of any regulatory or legal action brought as a part of the
19 commissioner's official duties. The commissioner shall not otherwise make the
20 documents, materials, or other information public without the prior written consent
21 of the insurer.

22 B. Neither the commissioner nor any person who receives documents,
23 materials, or other ORSA-related information, through examination or otherwise,
24 while acting pursuant to the authority of the commissioner or with whom such
25 documents, materials, or other information are shared pursuant to this Subpart shall
26 be permitted or required to testify in any private civil action concerning any
27 confidential documents, materials, or information subject to Subsection A of this
28 Section.

1 C. In order to assist in the performance of the commissioner's regulatory
2 duties, the commissioner:

3 (1) May, upon request, share documents, materials, or other ORSA-related
4 information, including the confidential and privileged documents, materials, or
5 information subject to Subsection A of this Section, including proprietary and trade
6 secret documents and materials, with other state, federal, and international financial
7 regulatory agencies, including members of any supervisory college as defined in R.S.
8 22:691.9, with the NAIC, and with any third-party consultants designated by the
9 commissioner, provided that the recipient agrees in writing to maintain the
10 confidentiality and privileged status of the ORSA-related documents, materials, or
11 other information and has verified in writing the legal authority to maintain
12 confidentiality.

13 (2) May receive documents, materials, or other ORSA-related information,
14 including otherwise confidential and privileged documents, materials, or
15 information, including proprietary and trade-secret information or documents, from
16 regulatory officials of other foreign or domestic jurisdictions, including members of
17 any supervisory college as defined in R.S. 22:691.9, and from the NAIC, and shall
18 maintain as confidential or privileged any documents, materials, or information
19 received with notice or the understanding that it is confidential or privileged pursuant
20 to the laws of the jurisdiction that is the source of the document, material, or
21 information.

22 (3) Shall enter into a written agreement with the NAIC or a third-party
23 consultant governing the sharing and use of information provided pursuant to this
24 Subpart, consistent with this Subsection that shall include all of the following:

25 (a) Specify procedures and protocols regarding the confidentiality and
26 security of information shared with the NAIC or a third-party consultant pursuant to
27 this Subpart, including procedures and protocols for sharing by the NAIC with other
28 state regulators from states in which the insurance group has domiciled insurers. The
29 agreement shall provide that the recipient agrees in writing to maintain the

1 confidentiality and privileged status of the ORSA-related documents, materials, or
2 other information and has verified in writing the legal authority to maintain
3 confidentiality.

4 (b) Specify that ownership of information shared with the NAIC or a
5 third-party consultant pursuant to this Subpart remains with the commissioner and
6 the NAIC's or a third-party consultant's use of the information is subject to the
7 direction of the commissioner.

8 (c) Prohibit the NAIC or third-party consultant from storing the information
9 shared pursuant to this Subpart in a permanent database after the underlying analysis
10 is complete.

11 (d) Require prompt notice be given to an insurer whose confidential
12 information in the possession of the NAIC or a third-party consultant pursuant to this
13 Subpart is subject to a request or subpoena to the NAIC or a third-party consultant
14 for disclosure or production.

15 (e) Require the NAIC or a third-party consultant to consent to intervention
16 by an insurer in any judicial or administrative action in which the NAIC or a third-
17 party consultant may be required to disclose confidential information about the
18 insurer shared with the NAIC or a third-party consultant pursuant to this Subpart.

19 (f) Provide for the insurer's written consent in the case of an agreement
20 involving a third-party consultant.

21 D. The sharing of information and documents by the commissioner pursuant
22 to this Subpart shall not constitute a delegation of regulatory authority or rulemaking,
23 and the commissioner is solely responsible for the administration, execution, and
24 enforcement of the provisions of this Subpart.

25 E. No waiver of any applicable privilege or claim of confidentiality in the
26 documents, proprietary and trade-secret materials, or other ORSA-related
27 information shall occur as a result of disclosure of such ORSA-related information
28 or documents to the commissioner pursuant to this Section or as a result of sharing
29 as authorized in this Subpart.

1 Section 3. This Act shall become effective on January 1, 2016.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 255 Re-Reengrossed

2015 Regular Session

Pierre

Abstract: Provides for supervision of insurance holding company systems by the insurance commissioner, including determination by the commissioner of group supervisors for internationally active insurance groups and enacting the National Association of Insurance Commissioners' (NAIC) Risk Management and Own Risk and Solvency Assessment Model Act.

Present law generally provides for regulation of insurance holding company systems by the commissioner of insurance, including initiating the formation of supervisory colleges of groups of insurers.

Proposed law provides for determination or acknowledgment by the commissioner of the group-wide supervisor of an internationally active insurance group, as defined in proposed law, and of an insurance group that does not meet that definition but requests the determination or acknowledgment of a group-wide supervisor.

Proposed law provides the criteria for determining the supervisor that should be the group-wide supervisor. Also provides for the criteria for acknowledging another supervisor as the group-wide supervisor and for evaluating material changes in the insurance group that would justify changing the group-wide supervisor.

Proposed law provides that if the commissioner is the group-wide supervisor for an internationally active insurance group, he may assess the enterprise risk within such group to ensure that both of the following conditions are met: (1) the material financial condition and liquidity risks to the insurers in the group are identified by management; and (2) certain mitigation measures are in place.

Proposed law provides that if the commissioner acknowledges that another chief insurance regulatory official from a jurisdiction that is not accredited by the NAIC is the group-wide supervisor, the commissioner may reasonably cooperate with that official if both of the following conditions are met: (1) the commissioner's cooperation is in compliance with state laws; and (2) the regulatory official also recognizes and cooperates with the commissioner's activities as a group-wide supervisor for other internationally active insurance groups where applicable.

Proposed law authorizes the commissioner of insurance to request information necessary to make a determination of group-wide supervision and provides for the confidentiality of that information by creating an exemption from the Public Records Law for such information.

Present law requires any insurer who is a member of an insurance holding company to register with the commissioner. Further provides that any insurer failing to file any such registration statement shall be required, after notice and hearing, to pay a penalty of \$100 for each day's delay, to be recovered by the commissioner and paid into the state's general revenue fund.

Proposed law instead provides that any such insurer failing to file the required registration statement shall be required, after notice and an opportunity to be heard, to pay such penalty, to be recovered by the commissioner and deposited upon receipt in the state treasury.

Proposed law enacts the National Association of Insurance Commissioners' (NAIC) Risk Management and Own Risk and Solvency Assessment (ORSA) Model Act, as follows:

- (1) Refers to the NAIC Own Risk and Solvency Assessment Guidance Manual for the requirements for an insurer or a insurance group (defined as insurers and affiliates included within an insurance holding company system) in preparing an own risk and solvency assessment (ORSA) and ORSA summary report. Requires the maintenance of a risk management framework to assist an insurer with identifying, assessing, monitoring, managing, and reporting on its material and relevant risks.
- (2) Provides for requirements and exemptions from ORSA reporting. Additionally gives the commissioner of insurance discretion to require a risk management framework for otherwise exempt insurers or groups based on unique circumstances, a risk-based capital event, or evidence of being in a hazardous financial condition.
- (3) Provides that certain documents, materials, or other information shall be confidential and privileged, shall not be subject to disclosure under the Public Records Law, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action.
- (4) Mandates that any insurer failing, without just cause, to timely file an ORSA summary report be required, after notice and an opportunity to be heard, to pay a penalty of \$100 for each day's delay, to be recovered by the commissioner and deposited upon receipt in the state treasury. Sets the maximum penalty at \$10,000. Allows the commissioner to reduce the penalty if the insurer demonstrates to him that the imposition of the penalty would constitute a financial hardship to it.

Effective Jan. 1, 2016.

(Amends R.S. 22:691.10(A) and 691.13(A) and R.S. 44:4.1(B)(11); Adds R.S. 22:691.2(11) and (12), 691.9.1, and 691.31-691.39)

Summary of Amendments Adopted by House

The House Floor Amendments to the reengrossed bill:

1. Clarify the conditions which must be met in the commissioner's assessment of the enterprise risk within an internationally active insurance group.
2. Clarify the conditions which must be met for cooperation by the commissioner with another chief insurance regulatory official undertaking group-wide supervision.
3. Add provisions relative to imposition of a penalty on a member of an insurance holding company failing to file the required registration statement.
4. Delete requirement for a hearing for an insurer failing to timely file an ORSA summary report before required payment of a penalty. Instead requires an opportunity to be heard for such an insurer.