
DIGEST

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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.