

GENERAL ASSEMBLY OF NORTH CAROLINA  
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SENATE BILL DRS35027-NE-8

Short Title: Maintain NAIC Accreditation of DOI.-AB (Public)

Sponsors: Senators Johnson, Britt, and Settle (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAINTAIN NAIC ACCREDITATION OF THE DEPARTMENT OF  
3 INSURANCE BY IMPLEMENTING GROUP CAPITAL CALCULATION AND  
4 LIQUIDITY STRESS TEST REQUIREMENTS AND TO MAKE VARIOUS  
5 CONFORMING CHANGES, AS RECOMMENDED BY THE DEPARTMENT OF  
6 INSURANCE.

7 The General Assembly of North Carolina enacts:

8  
9 **PART I. IMPLEMENT GROUP CAPITAL CALCULATION AND LIQUIDITY STRESS**  
10 **TEST REQUIREMENTS FOR INSURANCE HOLDING COMPANY SYSTEMS**

11 **SECTION 1.** Article 19 of Chapter 58 of the General Statutes is amended by adding  
12 the following new sections to read:

13 **"§ 58-19-26. Group capital calculation.**

14 (a) Reporting Requirement. – The ultimate controlling person of every insurer subject to  
15 registration pursuant to G.S. 58-19-25 shall concurrently file with the registration an annual  
16 group capital calculation report. The report shall be filed with the lead state commissioner.

17 (b) Exemptions. – The ultimate controlling person of any of the following is exempt from  
18 the filing requirement of subsection (a) of this section:

19 (1) An insurance holding company system that (i) has only one insurer within its  
20 holding company structure, (ii) only writes insurance business, (iii) is only  
21 licensed in its state of domicile, and (iv) assumes no business from any other  
22 insurer.

23 (2) An insurance holding company system that is required to perform a group  
24 capital calculation specified by the United States Federal Reserve Board.  
25 When this exemption applies, the lead state commissioner shall request the  
26 calculation from the United States Federal Reserve Board. If the United States  
27 Federal Reserve Board cannot share the calculation with the lead state  
28 commissioner under the terms of any information sharing agreements in  
29 effect, then the insurance holding company system is not exempt from the  
30 group capital calculation filing.

31 (3) An insurance holding company system whose non-United States group-wide  
32 supervisor is located within a reciprocal jurisdiction that recognizes the United  
33 States state regulatory approach to group supervision and group capital.

34 (4) An insurance holding company system that meets both of the following  
35 requirements:



- 1           a.     The insurance holding company system provides information to the  
2           lead state commissioner that meets the requirements for accreditation  
3           under the NAIC financial standards and accreditation program. The  
4           insurance holding company may provide this information either  
5           directly or indirectly through its group-wide supervisor. If provided  
6           indirectly through a group-wide supervisor, the supervisor is  
7           responsible for determining whether the information provided is  
8           sufficient to permit the lead state commissioner to comply with the  
9           NAIC group supervision approach, as detailed in the NAIC Financial  
10           Analysis Handbook.
- 11           b.     The insurance holding company system's non-United States  
12           group-wide supervisor is not in a reciprocal jurisdiction but  
13           nonetheless recognizes the group capital calculation as the worldwide  
14           group capital assessment for United States insurance groups who  
15           operate in that jurisdiction.
- 16       (c)     Recognition of Group Capital Calculation. – For purposes of subdivision (b)(4) of  
17       this section, a non-United States jurisdiction recognizes the group capital calculation if it satisfies  
18       any of the following criteria:
- 19           (1)    A competent regulatory authority in the jurisdiction affirms that insurers and  
20           insurance groups whose lead state is accredited by the NAIC under the NAIC  
21           accreditation program shall be subject only to worldwide prudential insurance  
22           group supervision, including worldwide group governance, solvency and  
23           capital, and reporting, as applicable, by that jurisdiction's lead state  
24           commissioner and will not be subject to group supervision, including  
25           worldwide group governance, solvency and capital, and reporting, at the level  
26           of the worldwide parent undertaking of the insurance or reinsurance group by  
27           the non-United States jurisdiction.
- 28           (2)    A competent regulatory authority in the jurisdiction affirms that information  
29           regarding insurers and their parent, subsidiary, or affiliated entities, if  
30           applicable, shall be provided to the lead state commissioner in accordance  
31           with an information sharing agreement in the form of a memorandum of  
32           understanding or similar document. Acceptable information sharing  
33           agreements include the International Association of Insurance Supervisors  
34           Multilateral Memorandum of Understanding or other multilateral memoranda  
35           of understanding coordinated by the NAIC. The jurisdiction does not satisfy  
36           this criteria if the lead state commissioner determines, in consultation with the  
37           NAIC, that the requirements of the information sharing agreements are no  
38           longer in force.
- 39           (3)    If no United States insurance groups operate in the non-United States  
40           jurisdiction, that non-United States jurisdiction notifies the lead state  
41           commissioner and the International Association of Insurance Supervisors in  
42           writing that the jurisdiction considers the group capital calculation an  
43           acceptable international capital standard.
- 44       (d)     Limitation of Exemptions. – Notwithstanding subsection (b) of this section, the lead  
45       state commissioner shall require filing of the group capital calculation for United States  
46       operations of any non-United States based insurance holding company system if the lead state  
47       commissioner determines that the filing is required for (i) prudential oversight and solvency  
48       monitoring purposes or (ii) ensuring the competitiveness of the insurance marketplace.
- 49       (e)     Consideration and Correction of NAIC Materials. – The lead state commissioner shall  
50       consider any relevant lists, reports, and recommendations published by the NAIC in determining  
51       whether the exceptions of subdivision (b)(4) of this section apply to an insurer. If the lead state

1 commissioner's determination differs from relevant materials published by the NAIC, the lead  
2 state commissioner shall provide the NAIC with written justification for the difference supported  
3 by documentation. If published NAIC materials indicate that a non-United States jurisdiction  
4 recognizes the group capital calculation and the lead state commissioner determines that the  
5 jurisdiction no longer meets the requirements of subsection (c) of this section, the lead state  
6 commissioner may recommend a correction of the materials to the NAIC.

7 (f) Discretionary Exemptions. – The lead state commissioner may either (i) exempt the  
8 ultimate controlling person of an insurance holding company system from the filing requirement  
9 of subsection (a) of this section or (ii) authorize the ultimate controlling person of an insurance  
10 holding company to file a limited group capital filing in lieu of the filing requirement of  
11 subsection (a) of this section if all of the following apply:

12 (1) The insurance holding company system has annual direct written and  
13 unaffiliated assumed premium, including international direct and assumed  
14 premium, but excluding premiums reinsured with the Federal Crop Insurance  
15 Corporation and Federal Flood Program, of less than one billion dollars  
16 (\$1,000,000,000).

17 (2) The insurance holding company system does not include insurers within its  
18 holding company structure that are domiciled outside of the United States or  
19 one of its territories.

20 (3) The insurance holding company system does not include banking, depository,  
21 or other financial entity that is subject to an identified regulatory capital  
22 framework within its holding company structure.

23 (4) The insurance holding company system attests that there are no material  
24 changes in transactions between insurers and non-insurers in the group that  
25 have occurred since the last filing of an annual group calculation report, if any.

26 (5) The non-insurers within the insurance holding company system do not pose a  
27 material financial risk to the insurer's ability to honor policyholder  
28 obligations.

29 (g) Resumption of Filings. – If the lead state commissioner determines that an insurance  
30 holding company system exempted from the filing requirements of subsection (a) of this section  
31 no longer meets the requirements for an exemption, the insurance holding company system shall  
32 file the group capital calculation at the next annual filing date unless given an extension by the  
33 lead state commissioner based on reasonable grounds shown. If the lead state commissioner,  
34 pursuant to subsection (f) of this section, either grants a discretionary exemption or authorizes a  
35 limited group capital filing, the lead state commissioner may require the ultimate controlling  
36 person of that insurance holding company system to file an annual group calculation at any time  
37 if all of the following apply:

38 (1) Any insurer within the insurance holding company system is in a risk-based  
39 capital action level event as set forth in Article 12 of this Chapter or a similar  
40 standard for a non-United States insurer.

41 (2) Any insurer within the insurance holding company system meets one or more  
42 of the standards of an insurer deemed to be in hazardous financial condition  
43 pursuant to the criteria provided in G.S. 58-30-60.

44 (3) Any insurer within the insurance holding company system otherwise exhibits  
45 qualities of a troubled insurer as determined by the lead state commissioner  
46 based on unique circumstances, including the type and volume of business  
47 written, ownership and organizational structure, federal agency requests, and  
48 international supervisor requests.

49 **"§ 58-19-27. Liquidity stress test.**

50 (a) Participation and Reporting Requirement. – The ultimate controlling person of every  
51 insurer subject to registration pursuant to G.S. 58-19-25 shall be included in the NAIC liquidity

1 stress test framework and file a report with the lead state commissioner detailing the results of a  
2 specific year's liquidity stress test if either of the following applies:

3 (1) The insurer meets the scope criteria of that data year's NAIC liquidity stress  
4 test framework.

5 (2) The insurer did not meet the scope criteria of that data year's liquidity stress  
6 test framework, but the lead state commissioner, in consultation with the  
7 NAIC Financial Stability Task Force or its successor, nonetheless determines  
8 the insurer should be included in the NAIC liquidity stress test framework for  
9 that data year. In making this determination, the lead state commissioner shall  
10 attempt to avoid the frequent inclusion or exclusion of insurers.

11 (b) The performance of, and filing of the results from, a specific year's liquidity stress  
12 test shall comply with (i) the NAIC liquidity stress test framework's instructions and reporting  
13 templates for that year and (ii) all lead state commissioners' directives issued in consultation with  
14 the NAIC Financial Stability Task Force or its successor.

15 (c) Exemptions. – The lead state commissioner may, in consultation with the NAIC  
16 Financial Stability Task Force or its successor, exempt an ultimate controlling person from the  
17 reporting requirements of subsection (a) of this section. The lead state commissioner shall  
18 consider the intent of regulators to avoid having insurers scoped in and out of the NAIC liquidity  
19 stress test framework on a frequent basis when making this determination.

20 **"§ 58-19-28. Dissemination prohibited.**

21 (a) Unless otherwise provided by law, the making, publishing, disseminating, circulating,  
22 or placing before the public, or causing directly or indirectly to be made, published, disseminated,  
23 circulated, or placed before the public in a newspaper, magazine, or other publication, or in the  
24 form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station or  
25 any electronic means of communication available to the public, or in any other way as an  
26 advertisement, announcement, or statement containing a representation or statement with regard  
27 to the group capital calculation, group capital ratio, the liquidity stress test results, or supporting  
28 disclosures for the liquidity stress test of any insurer or any insurer group, or of any component  
29 derived in the calculation by any insurer, broker, or other person engaged in any manner in the  
30 insurance business is prohibited.

31 (b) Notwithstanding subsection (a) of this section, if any materially false statement with  
32 respect to the group capital calculation, resulting group capital ratio, an inappropriate comparison  
33 of any amount to an insurer's or insurance group's group capital calculation or resulting group  
34 capital ratio, liquidity stress test result, supporting disclosures for the liquidity stress test, or an  
35 inappropriate comparison of any amount to an insurer's or insurance group's liquidity stress test  
36 result, or supporting disclosures is published in any written publication and the insurer is able to  
37 demonstrate to the Commissioner with substantial proof the falsity or inappropriateness of the  
38 statement, then the insurer may publish announcements in a written publication if the sole  
39 purpose of the announcement is to rebut the materially false or inappropriate statement."

40  
41 **PART II. CONFORMING CHANGES**

42 **SECTION 2.(a)** G.S. 58-19-5 reads as rewritten:

43 **"§ 58-19-5. Definitions.**

44 As used in this Article, unless the context requires otherwise, the following terms have the  
45 following meanings:

46 ...  
47 **(10a)** Group capital calculation. – A report, completed in accordance with the group  
48 capital calculation instructions as adopted and amended by the NAIC, used to  
49 evaluate the capital adequacy of insurance holding company systems that  
50 includes information on the sources of capital within the system, where that  
51 capital is located, and sources of risk.

1           ~~(10a)~~(10b) Group-wide supervisor. – The regulatory official authorized to engage in  
 2           conducting and coordinating group-wide supervision activities who is  
 3           determined or acknowledged by the Commissioner under G.S. 58-19-38 to  
 4           have sufficient significant contacts with the internationally active insurance  
 5           group.

6           ...

7           (12b) Lead state commissioner. – The person responsible for regulating the  
 8           insurance holding company system as determined by the Commissioner in  
 9           accordance with the procedures within the Financial Analysis Handbook  
 10           adopted by the NAIC.

11           (12c) Limited group capital filing. – A simplified version of the group capital  
 12           calculation, completed in accordance with procedures adopted by the NAIC,  
 13           where an insurance holding company system only provides a limited amount  
 14           of data, allowing them to avoid the filing of a full group capital calculation.

15           (12d) Liquidity stress test. – A process simulating extreme market conditions to  
 16           assess an entity's ability to maintain sufficient liquidity in response to adverse  
 17           events.

18           (12e) NAIC. – The National Association of Insurance Commissioners.

19           (12f) NAIC liquidity stress test framework. – A publication, adopted and amended  
 20           by the NAIC in accordance with procedures adopted by the NAIC, which  
 21           includes a history of the NAIC's development of regulatory liquidity stress  
 22           testing, the scope criteria applicable for a specific data year, and the liquidity  
 23           stress test instructions and reporting templates for a specific data year.

24           ...

25           (13a) Reciprocal jurisdiction. – As defined in G.S. 58-7-21(b)(4b).

26           (13b) Scope criteria. – Designated exposure bases, detailed in the NAIC liquidity  
 27           stress test framework along with minimum magnitudes thereof for the  
 28           specified data year, used to establish a preliminary list of insurers included in  
 29           the NAIC liquidity stress test framework for that data year.

30           ...."

31           **SECTION 2.(b)** G.S. 58-19-15 reads as rewritten:

32           **"§ 58-19-15. Acquisition of control of or merger with domestic insurer.**

33           ...

34           (b) The statement to be filed with the Commissioner under subsection (a) of this section  
 35 shall be furnished on a Form A as prescribed by the Commissioner, made under oath or  
 36 affirmation, and shall contain the following information:

37           ...

38           (11a) An agreement by the person required to file the statement referred to in  
 39 subsection (a) of this section that it will provide the annual report, as specified  
 40 in G.S. 58-19-25, G.S. 58-19-25(l), for so long as control exists.

41           ...."

42           **SECTION 2.(c)** G.S. 58-19-25 reads as rewritten:

43           **"§ 58-19-25. Registration of ~~insurers~~insurers; disclaimer of affiliation; enterprise risk**  
 44           **filings.**

45           ...

46           (c) No information need be disclosed on the registration statement filed pursuant to  
 47 subsection (b) of this section if such information is not ~~material for the purposes of this section.~~  
 48 ~~Unless the Commissioner by rule or order provides otherwise, all~~ material. For purposes of this  
 49 section, all sales, purchases, exchanges, loans or extensions of credit, investments, or guarantees  
 50 involving one-half of one percent ~~(1/2%)~~ (0.5%) or less of an insurer's admitted assets as of  
 51 the preceding December 31 are not ~~material for the purposes of this section.~~ material, unless the

1 Commissioner by rule or order provides otherwise. This subsection does not apply to the  
 2 reporting requirements of G.S. 58-19-26 and G.S. 58-19-27.

3 ...

4 (l) Effective January 1, 2016, the ultimate controlling person of every insurer subject to  
 5 registration shall also file an annual enterprise risk report on Form F as prescribed by the  
 6 Commissioner. The report shall, to the best of the ultimate controlling person's knowledge and  
 7 belief, identify the material risks within the insurance holding company system that could pose  
 8 enterprise risk to the insurer. The report shall be filed with the lead state ~~commissioner of the~~  
 9 ~~insurance holding company system as determined by the procedures within the Financial~~  
 10 ~~Analysis Handbook adopted by the NAIC commissioner."~~

11 SECTION 2.(d) G.S. 58-19-40 reads as rewritten:

12 "**§ 58-19-40. Confidential treatment.**

13 (a) Documents, materials, or other information in the possession or control of the  
 14 Department that are obtained by or disclosed to the Commissioner or any other person in the  
 15 course of an examination or investigation made pursuant to G.S. 58-19-35, and all information  
 16 reported or provided to the Department pursuant to subdivisions (11a) and (11b) of  
 17 G.S. 58-19-15(b), G.S. 58-19-25, G.S. 58-19-30 and G.S. 58-19-38 are recognized by this State  
 18 as being proprietary and to contain trade secrets, and shall be confidential by law and privileged,  
 19 shall not be considered a public record under either G.S. 58-2-100 or Chapter 132 of the General  
 20 Statutes, shall not be subject to subpoena, and shall not be subject to discovery or admissible in  
 21 evidence in any private civil action. However, the Commissioner is authorized to use the  
 22 documents, materials, or other information in the furtherance of any regulatory or legal action  
 23 brought as a part of the Commissioner's official duties. The Commissioner shall not otherwise  
 24 make the documents, materials, or other information public without the prior written consent of  
 25 the insurer to which it pertains unless the Commissioner, after giving the insurer and its affiliates  
 26 who would be affected thereby notice and opportunity to be heard, determines that the interest of  
 27 policyholders, shareholders, or the public will be served by the publication thereof, in which  
 28 event the Commissioner may publish all or any part of the information in such manner as may  
 29 be deemed appropriate.

30 (a1) With respect to information provided to the Department pursuant to G.S. 58-19-26  
 31 and G.S. 58-19-27, the Commissioner shall:

32 (1) Maintain the confidentiality of the group capital calculation and group capital  
 33 ratio produced within the calculation and any group capital information  
 34 received from an insurance holding company system supervised by the  
 35 Federal Reserve Board or any United States group-wide supervisor.

36 (2) Maintain the confidentiality of the liquidity stress test results and supporting  
 37 disclosures and any liquidity stress test information received from an  
 38 insurance holding company system supervised by the Federal Reserve Board  
 39 and non-United States group-wide supervisors.

40 ...

41 (c) In order to assist in the performance of the duties imposed by this Article, the  
 42 Commissioner:

43 (1) May share documents, materials, or other information, including the  
 44 confidential and privileged documents, materials, or information subject to  
 45 subsection (a) of this section, including proprietary and trade secret documents  
 46 and materials, with other all of the following:

47 a. Other state, federal, and international regulatory agencies, with the  
 48 NAIC and its affiliates and subsidiaries, and with state, agencies.

49 b. The NAIC.

50 c. Any third-party consultants designated by the Commissioner.

- 1                   d.     State, federal, and international law enforcement authorities, including  
2                   members of any supervisory college described in G.S. 58-19-37,  
3                   provided that the recipient agrees in writing to maintain the  
4                   confidentiality and privileged status of the document, material, or  
5                   other information and has verified in writing the legal authority to  
6                   maintain confidentiality.
- 7                   (2)    Notwithstanding subdivision (1) of this subsection, may only share  
8                   confidential and privileged documents, material, or information reported  
9                   pursuant to ~~G.S. 58-19-25~~ G.S. 58-19-25(l) with Commissioners of states  
10                  having statutes or regulations substantially similar to subsection (a) of this  
11                  section and who have agreed in writing not to disclose such information.
- 12                  (3)    May receive documents, materials, or information, including otherwise  
13                  confidential and privileged documents, materials, or ~~information~~ information,  
14                  including proprietary and trade-secret information, from the NAIC and its  
15                  affiliates and subsidiaries and from regulatory and law enforcement officials  
16                  of other foreign or domestic jurisdictions, and shall maintain as confidential  
17                  or privileged any document, material, or information received with notice or  
18                  the understanding that it is confidential or privileged under the laws of the  
19                  jurisdiction that is the source of the document, material, or information.
- 20                  (4)    Shall enter into written agreements with the NAIC and any third-party  
21                  consultant designated by the Commissioner governing sharing and use of  
22                  information provided pursuant to this Article consistent with this subsection  
23                  that ~~shall~~ shall do all of the following:
- 24                  a.     Require a recipient to maintain the confidentiality and privileged  
25                  status of any documents, materials, or information. Specify procedures  
26                  and protocols regarding the confidentiality and security of information  
27                  shared with the NAIC ~~and its affiliates and subsidiaries~~ or a third-party  
28                  consultant designated by the Commissioner pursuant to this Article,  
29                  including procedures and protocols for sharing by the NAIC with other  
30                  state, federal, or international ~~regulators;~~ regulators. The agreement  
31                  shall require a recipient to verify in writing that the recipient has  
32                  reviewed the legal authority supporting any confidentiality or  
33                  privilege.
- 34                  b.     Specify that ownership of information shared with the NAIC ~~and its~~  
35                  ~~affiliates and subsidiaries~~ or a third-party consultant pursuant to this  
36                  Article remains with the Commissioner, and the ~~NAIC's~~ use of the  
37                  information by the NAIC or third-party consultant designated by the  
38                  Commissioner is subject to the direction of the  
39                  ~~Commissioner;~~ Commissioner.
- 40                  c.     Prohibit the NAIC or third-party consultant designated by the  
41                  Commissioner from storing the information shared pursuant to this  
42                  section in a permanent database after the underlying analysis is  
43                  completed. This sub-subdivision does not apply to documents,  
44                  material, or information reported pursuant to G.S. 58-19-27.
- 45                  e.d.    Require prompt notice to be given to an insurer whose confidential  
46                  information in the possession of the NAIC or a third-party consultant  
47                  designated by the Commissioner pursuant to this Article is subject to  
48                  a request or subpoena to the NAIC for disclosure or ~~production;~~  
49                  and production.
- 50                  d.e.    Require the NAIC ~~and its affiliates and subsidiaries~~ or a third-party  
51                  consultant designated by the Commissioner to consent to intervention

1 by an insurer in any judicial or administrative action in which the  
2 NAIC ~~and its affiliates and subsidiaries~~ or a third-party consultant  
3 designated by the Commissioner may be required to disclose  
4 confidential information about the insurer shared with the NAIC ~~and~~  
5 ~~its affiliates and subsidiaries~~ or a third-party consultant designated by  
6 the Commissioner pursuant to Article 19 of this Chapter.

7 f. Require the Commissioner to notify an insurer when documents,  
8 materials, or information confidential or privileged to that insurer are  
9 shared with a third-party consultant. The notification shall include the  
10 identity of the third-party consultant. This sub-subdivision only  
11 applies to documents, materials, or information shared pursuant to  
12 G.S. 58-19-27.

13 ...

14 (f) Documents, materials, or other information in the possession or control of the NAIC  
15 or a third-party consultant designated by the Commissioner pursuant to a requirement of this  
16 Article shall be confidential by law and privileged, shall not be considered a public record under  
17 G.S. 58-2-100 or Chapter 132 of the General Statutes, shall not be subject to subpoena, and shall  
18 not be subject to discovery or admissible in evidence in any private civil action."  
19

20 **PART III. EFFECTIVE DATE**

21 **SECTION 3.** This act becomes effective January 1, 2026.