

Senate File 2237 - Introduced

SENATE FILE 2237
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 3062)

A BILL FOR

1 An Act relating to financial reporting by insurance holding
2 company systems.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 511.8, subsection 22, paragraph b,
2 subparagraph (2), Code 2022, is amended to read as follows:

3 (2) Be between an insurer and a conduit and be
4 collateralized by cash or obligations which are eligible
5 under [subsection 1, 2, 3, 5, 19, or 24](#), are deposited with
6 a custodian bank as defined in [subsection 21](#), and are held
7 under a written agreement with the custodian bank that
8 complies with [subsection 21](#) and provides for the proceeds
9 of the collateral, subject to the terms and conditions of
10 the applicable collateral or other credit support agreement,
11 to be remitted to the legal reserve deposit of the company
12 or association and to vest in the state in accordance with
13 section 508.18 whenever proceedings under that section are
14 instituted. Paragraphs "c", "d", and "e" of [this subsection](#) are
15 not applicable to investments in financial instruments used in
16 hedging transactions eligible pursuant to this subparagraph.
17 As used in this subparagraph, "conduit" means a person within
18 an insurer's insurance holding company system, as defined
19 in [section 521A.1, subsection 7](#), which aggregates hedging
20 transactions by other persons within the insurance holding
21 company system and replicates them with counterparties.

22 Sec. 2. Section 521A.1, Code 2022, is amended by adding the
23 following new subsections:

24 NEW SUBSECTION. 5A. "*Group capital calculation instructions*"
25 means the most recent instructions adopted by the NAIC group
26 capital calculation working group or its successor, and as
27 published or amended by the NAIC in accordance with procedures
28 adopted by the NAIC.

29 NEW SUBSECTION. 9A. "*Liquidity stress test framework*" means
30 the most recent NAIC liquidity stress test framework, initially
31 adopted in 2020, for life insurers meeting the scope criteria,
32 and as published or amended by the NAIC in accordance with
33 procedures adopted by the NAIC.

34 NEW SUBSECTION. 9B. "*NAIC*" means the national association
35 of insurance commissioners.

1 NEW SUBSECTION. 10A. "*Reciprocal jurisdiction*" means the
2 same as described in section 521B.102, subsection 6, paragraph
3 "a", subparagraph (1).

4 NEW SUBSECTION. 11A. "*Scope criteria*" means the thresholds
5 detailed in the NAIC liquidity stress test framework that are
6 used to establish the life insurer entities that are subject to
7 a liquidity stress test for a specific data year.

8 Sec. 3. Section 521A.3, subsection 2, paragraph a,
9 subparagraph (12), Code 2022, is amended to read as follows:

10 (12) An agreement by the person required to file the
11 statement referred to in [subsection 1](#) that the person will
12 provide the annual enterprise risk report specified in section
13 521A.4, subsection 12, for so long as control exists.

14 Sec. 4. Section 521A.4, subsections 3 and 12, Code 2022, are
15 amended to read as follows:

16 3. *Materiality.* Information need not be disclosed on the
17 registration statement filed pursuant to [subsection 2](#) if the
18 information is not material for the purposes of ~~this section~~
19 [subsections 1 through 12](#). Unless the commissioner by rule or
20 order provides otherwise, sales, purchases, exchanges, loans or
21 extensions of credit, or investments or guarantees involving
22 one-half of one percent or less of an insurer's admitted assets
23 as of the next preceding December 31, are not material for
24 purposes of ~~this section~~ [subsections 1 through 12](#).

25 12. *Enterprise risk report.* The ultimate controlling person
26 of every insurer subject to registration shall also file an
27 annual enterprise risk report. The report shall, to the best
28 of the ultimate controlling person's knowledge and belief,
29 identify the material risks within the insurance holding
30 company system that could pose enterprise risk to the insurer.
31 The report shall be filed with the lead state commissioner
32 of the insurance holding company system as determined by the
33 procedures within the financial analysis handbook adopted by
34 the ~~national association of insurance commissioners~~ NAIC.

35 Sec. 5. Section 521A.4, Code 2022, is amended by adding the

1 following new subsections:

2 NEW SUBSECTION. 12A. *Group capital calculation.*

3 a. The ultimate controlling person of every insurer
4 subject to registration shall concurrently file with the
5 registration an annual group capital calculation. The
6 calculation must be completed in accordance with the group
7 capital calculation instructions, and must be filed with the
8 lead state commissioner of the insurance holding company system
9 as determined by the procedures in the most recent financial
10 analysis handbook published by the NAIC. As permitted by
11 the group capital calculation instructions, the lead state
12 commissioner may allow a controlling person, other than
13 the ultimate controlling person, to file the group capital
14 calculation. The following insurance holding company systems
15 are exempt from filing the group capital calculation:

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

20 (2) An insurance holding company system that is required to
21 perform a group capital calculation specified by the federal
22 reserve board, if the board is able to share the calculation
23 with the lead state commissioner pursuant to the terms of
24 applicable information sharing agreements. The exemption shall
25 not apply if the board does not share the calculation with the
26 lead state commissioner.

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

31 (4) An insurance holding company system that meets all of
32 the following criteria:

33 (a) The system provides information to a lead state that
34 meets the requirements for accreditation under the NAIC
35 financial standards and accreditation program, either directly

1 or indirectly through the group-wide supervisor who has
2 determined such information is satisfactory to allow the lead
3 state to comply with the group supervision approach as detailed
4 in the most recent financial analysis handbook published by the
5 NAIC.

6 (b) The system's non-United States' group-wide supervisor
7 that is not in a reciprocal jurisdiction recognizes and
8 accepts, as established by the commissioner by rule, the group
9 capital calculation as the world-wide group capital assessment
10 for United States' insurance groups that operate in that
11 jurisdiction.

12 b. Notwithstanding paragraph "a", subparagraphs (3) and (4),
13 a lead state commissioner, after any necessary consultation
14 with appropriate supervisors or officials, shall require the
15 United States' operations of any non-United States-based
16 insurance holding company system to file a group capital
17 calculation if the lead state commissioner deems it appropriate
18 for prudential oversight and solvency monitoring purposes, or
19 for ensuring the competitiveness of the insurance marketplace.

20 c. Notwithstanding paragraph "a", the lead state
21 commissioner shall have the discretion to exempt the ultimate
22 controlling person of an insurer subject to registration from
23 the annual group capital calculation filing requirement, or to
24 allow a limited group capital filing or report in accordance
25 with criteria as established by the commissioner by rule.

26 d. If the lead state commissioner determines that an
27 insurance holding company system no longer satisfies the
28 criteria for exemption under paragraph "a", subparagraphs (1)
29 through (4), the insurance holding company system shall file
30 the group capital calculation at the next annual filing date,
31 unless for reasonable grounds shown is granted an extension by
32 the lead state commissioner.

33 NEW SUBSECTION. 12B. *Liquidity stress test.*

34 a. The ultimate controlling person of every insurer
35 subject to registration, and that meets the scope criteria,

1 shall file the results of a liquidity stress test for each
2 data year that the insurer is subject to the liquidity stress
3 test framework. The filing shall be made to the lead state
4 insurance commissioner of the insurance holding company system
5 as determined by the procedures in the applicable financial
6 analysis handbook published by the NAIC.

7 *b.* Any change to the NAIC liquidity stress test framework,
8 or to the data year for which the scope criteria is to be
9 measured, shall be effective on January 1 of the calendar year
10 immediately following the calendar year that the change to the
11 liquidity stress test framework or the data year is adopted by
12 the NAIC.

13 *c.* An insurer that meets at least one threshold of the
14 scope criteria shall be subject to the liquidity stress
15 test framework for the specified data year unless the lead
16 state insurance commissioner, in consultation with the NAIC
17 financial stability task force or its successor, determines
18 that the insurer shall be exempt from the liquidity stress test
19 framework for that data year. An insurer that does not meet
20 at least one threshold of the scope criteria for a specified
21 data year may be subject to the liquidity stress test framework
22 if the lead state insurance commissioner, in consultation with
23 the NAIC financial stability task force or its successor,
24 determines that the insurer shall be subject to the liquidity
25 stress test framework for that data year.

26 *d.* The performance of, and filing of the results from, a
27 specific year's liquidity stress test shall comply with all the
28 following:

29 (1) The liquidity stress test framework instructions and
30 reporting template applicable to the corresponding data year.

31 (2) The determinations made by the lead state insurance
32 commissioner, in conjunction with the NAIC's financial
33 stability task force or its successor, that are provided within
34 the liquidity stress test framework.

35 Sec. 6. Section 521A.7, subsection 1, Code 2022, is amended

1 to read as follows:

2 1. a. All information, documents, and copies thereof
3 obtained by or disclosed to the commissioner or any other
4 person in the course of an examination or investigation made
5 pursuant to section 521A.6 or 521A.6A, and all information
6 reported or provided to the commissioner pursuant to
7 sections 521A.4, 521A.5, 521A.6A, and 521A.6B, ~~shall be given~~
8 ~~confidential treatment~~ shall be considered a confidential
9 record and be recognized and protected as a trade secret
10 pursuant to section 22.7, shall not be subject to subpoena,
11 shall not be subject to discovery or admissible in evidence
12 in a private civil action, and shall not be made public by
13 the commissioner or any other person, except to insurance
14 departments of other states, without the prior written
15 consent of the insurer to which it pertains unless the
16 commissioner, after giving the insurer and its affiliates
17 who would be affected thereby, notice and opportunity to
18 be heard, determines that the interests of policyholders,
19 shareholders, or the public will be served by the publication
20 thereof, in which event the commissioner may publish all or
21 any part thereof in such manner as the commissioner may deem
22 appropriate. However, the commissioner is authorized to use
23 the information, documents, or copies obtained by, disclosed
24 to, or reported or provided to the commissioner as described in
25 this subsection, in the furtherance of any regulatory or legal
26 action brought as a part of the commissioner's official duties.

27 b. Notwithstanding paragraph "a", the commissioner shall
28 maintain the confidentiality and shall not publish any of the
29 following submitted to the commissioner pursuant to section
30 521A.4, subsection 12A:

31 (1) Group capital calculations.

32 (2) Group capital ratios produced within the group capital
33 calculation.

34 (3) Any group capital information received from an
35 insurance holding company supervised by the federal reserve

1 board or any United States' group-wide supervisor.

2 c. Notwithstanding paragraph "a", the commissioner shall
3 maintain the confidentiality and shall not publish any of the
4 following submitted to the commissioner pursuant to section
5 521A.4, subsection 12B:

6 (1) Liquidity stress test results and supporting
7 documentation.

8 (2) Any liquidity stress test information received from an
9 insurance holding company supervised by the federal reserve
10 board or any non-United States' group-wide supervisor.

11 Sec. 7. Section 521A.7, subsection 3, Code 2022, is amended
12 by striking the subsection and inserting in lieu thereof the
13 following:

14 3. In order to assist in the performance of the
15 commissioner's duties, the commissioner:

16 a. May share documents, materials, or other information,
17 including confidential, privileged, and trade secret documents,
18 materials, or information subject to subsection 1, with
19 other state, federal, and international regulatory agencies,
20 the NAIC, any third-party consultants designated by the
21 commissioner, state, federal, and international law enforcement
22 authorities, including members of any supervisory college
23 described in section 521A.6A, if the recipient provides a
24 written attestation that states all of the following:

25 (1) That the recipient shall maintain the confidentiality,
26 privileged, or trade secret status of the document, material,
27 or other information.

28 (2) That the recipient has the legal authority to maintain
29 the confidentiality, privileged, or trade secret status of the
30 document, material, or other information.

31 b. Notwithstanding paragraph "a", the commissioner may
32 only share confidential and privileged documents, materials,
33 or information filed or submitted pursuant to section
34 521A.4, subsection 12, with the commissioner of a state that
35 has statutes or regulations substantially similar if the

1 commissioner provides a written attestation that the documents,
2 material, or information shall not be disclosed.

3 *c.* May receive documents, materials, or information,
4 including otherwise confidential, privileged, proprietary,
5 or trade secret documents, materials, or information from
6 the NAIC and its affiliates and subsidiaries, regulatory
7 and law enforcement officials of other foreign or domestic
8 jurisdictions, and shall maintain as confidential, privileged,
9 proprietary, or trade secret any document, material, or
10 information received with either notice or the understanding
11 that it is confidential, privileged, proprietary, or trade
12 secret under the laws of the jurisdiction that is the source of
13 the document, material, or information.

14 *d.* Shall enter into a written agreement with the NAIC, and
15 any third-party consultant designated by the commissioner, that
16 governs sharing and the use of information provided pursuant to
17 this chapter, that is consistent with this subsection, and that
18 does all the following:

19 (1) Specifies procedures and protocols regarding the
20 confidentiality and security of information shared pursuant
21 to this chapter with the NAIC or a third-party consultant
22 designated by the commissioner, including procedures and
23 protocols for the NAIC sharing the information with other
24 state, federal, or international regulators. The agreement
25 must provide that the recipient of the information shared
26 by the NAIC or a third-party consultant designated by the
27 commissioner shall provide a written attestation that states
28 all of the following:

29 (a) That the recipient shall maintain the confidentiality,
30 privileged, or trade secret status of the information.

31 (b) That the recipient has the legal authority to maintain
32 the confidentiality, privileged, or trade secret status of the
33 information.

34 (2) Specifies that ownership of all information shared
35 pursuant to this chapter with the NAIC or a third-party

1 consultant designated by the commissioner remains with the
2 commissioner, and the NAIC's or third-party consultant's
3 use of the information is subject to the direction of the
4 commissioner.

5 (3) Prohibits the NAIC or a third-party consultant
6 designated by the commissioner from storing the information
7 shared pursuant to this chapter in a permanent database after
8 the underlying analysis is completed. This prohibition shall
9 not apply to filings and supporting documentation made pursuant
10 to section 521A.4, subsection 12A.

11 (4) Requires prompt notice be given by the NAIC or a
12 third-party consultant designated by the commissioner to an
13 insurer whose confidential information is the possession of the
14 NAIC or the consultant pursuant to this chapter and that is
15 subject to a request or subpoena to the NAIC or the consultant
16 for disclosure or production.

17 (5) Requires the NAIC or a third-party consultant
18 designated by the commissioner to consent to intervention by an
19 insurer in any judicial or administrative action in which the
20 NAIC or the consultant may be required to disclose confidential
21 information about the insurer that had been shared with the
22 NAIC or consultant pursuant to this chapter.

23 (6) Requires notification to an insurer of the identity of
24 a third-party consultant designated by the commissioner that is
25 in possession of the results of the insurer's liquidity stress
26 test or any supporting documentation filed pursuant to section
27 521A.4, subsection 12B.

28 Sec. 8. Section 521A.7, subsection 6, Code 2022, is amended
29 to read as follows:

30 6. Documents, materials, or other information in the
31 possession or control of the ~~national association of insurance~~
32 ~~commissioners~~ NAIC or a third-party consultant designated by
33 the commissioner pursuant to this chapter shall be confidential
34 by law and privileged, shall not be subject to chapter 22,
35 shall not be subject to subpoena, and shall not be subject

1 to discovery or admissible in evidence in any private civil
2 action.

3 Sec. 9. NEW SECTION. 521A.7A **Announcements to the public**
4 **— prohibition.**

5 1. a. The group capital calculation and all supporting
6 documentation filed pursuant to section 521A.4, subsection
7 12A, and the liquidity stress test results and all supporting
8 documentation filed pursuant to section 521A.4, subsection
9 12B, shall be designated as regulatory tools utilized for the
10 purpose of assessing group risks, and capital adequacy and
11 group liquidity risks, respectively, and shall not be construed
12 as a means to rank insurers or insurance holding company
13 systems.

14 b. Except as otherwise required under this chapter, an
15 insurer, broker, or other person engaged in the business of
16 insurance shall be prohibited from making an announcement to
17 the public. For purposes of this subsection, "*announcement to*
18 *the public*" means the use, directly or indirectly, of any print
19 media, broadcast media, electronic media, subscription internet
20 site, internet site available to the public, or any other means
21 to make a representation or statement related to any of the
22 following:

23 (1) (a) An insurer's or an insurer group's filings made
24 under section 521A.4, subsection 12A, including a group capital
25 calculation and any supporting documentation.

26 (b) Any component derived from an insurer's or an insurer
27 group's group capital calculation or supporting documentation
28 filed under subparagraph division (a).

29 (c) Any comparison of an insurer's or an insurer group's
30 group capital calculation, group capital ratio, or other metric
31 calculated or derived from the insurer's or insurer group's
32 filings under subparagraph division (a).

33 (2) (a) An insurer's or an insurer group's filings made
34 under section 521A.4, subsection 12B, including the result of
35 the liquidity stress test and any supporting documentation.

1 (b) Any component derived from the results of an insurer's
2 or an insurer group's group liquidity stress test or supporting
3 documentation filed under subparagraph division (a).

4 (c) Any comparison of an insurer's or an insurer
5 group's liquidity stress test or other metric calculated or
6 derived from the insurer's or insurer group's filings under
7 subparagraph division (a).

8 2. If an insurer or an insurer group is able to demonstrate
9 to the commissioner with substantial proof the material falsity
10 or inappropriateness of an announcement made to the public
11 under subsection 1, paragraph "b", by an insurer, broker, or
12 other person engaged in the business of insurance, the insurer
13 or insurer group may publish an announcement in a written
14 publication if the sole purpose of the announcement is to rebut
15 the materially false or inappropriate announcement made to the
16 public by the insurer, broker, or other person engaged in the
17 business of insurance.

18 EXPLANATION

19 The inclusion of this explanation does not constitute agreement with
20 the explanation's substance by the members of the general assembly.

21 This bill relates to financial reporting by insurance
22 holding company systems (holding companies).

23 The bill requires the ultimate controlling person (person)
24 of every insurer subject to registration to concurrently file
25 with the registration an annual group capital calculation,
26 completed in accordance with the group capital calculation
27 instructions, and filed with the lead state commissioner (lead
28 commissioner) of the holding company as determined by the
29 procedures in the most recent financial analysis handbook
30 (handbook) published by the national association of insurance
31 commissioners (NAIC). "Group capital calculation instructions"
32 are defined in the bill as the most recent instructions
33 adopted by the NAIC group capital calculation working group
34 or its successor, and as published or amended by the NAIC
35 in accordance with procedures adopted by the NAIC. Certain

1 holding companies, as detailed in the bill, are exempt from
2 filing the calculation.

3 The bill also requires the person of every insurer subject
4 to registration, and that meets the scope criteria, to file
5 the results of a liquidity stress test (stress test) for each
6 data year that the insurer is subject to the liquidity stress
7 test framework (framework). The filing shall be made to the
8 lead commissioner of the holding company as determined by the
9 procedures in the most recent handbook published by the NAIC.
10 An insurer that meets at least one threshold of the scope
11 criteria shall be subject to the framework for the specified
12 data year unless the lead commissioner, in consultation
13 with the NAIC financial stability task force (task force),
14 determines that the insurer is exempt. An insurer that does
15 not meet at least one threshold of the scope criteria for a
16 specified data year may be subject to the framework if the
17 lead commissioner, in consultation with the NAIC task force,
18 determines that the insurer shall be subject to the framework
19 for that data year. "Scope criteria" and "liquidity stress
20 test framework" are defined in the bill.

21 The performance of, and the filing of, the results from a
22 specific year's stress test must comply with the requirements
23 detailed in the bill. Any change to the framework, or to the
24 data year for which the scope criteria is to be measured, shall
25 be effective on January 1 of the calendar year immediately
26 following the calendar year that the change to the framework or
27 to the data year is adopted by the NAIC.

28 All information reported or provided to the commissioner
29 shall be considered a confidential record and be recognized and
30 protected as a trade secret, and is subject to disclosure or
31 prohibited from disclosure as detailed in the bill.

32 The group capital calculation and all supporting
33 documentation, and the stress test results and all supporting
34 documentation, shall be designated as regulatory tools utilized
35 for the purpose of assessing group risks, and capital adequacy

1 and group liquidity risks, respectively, and shall not be
2 construed as a means to rank insurers or holding companies.
3 Except as otherwise required under the bill, an insurer, a
4 broker, or other person engaged in the business of insurance
5 shall be prohibited from making an announcement to the public.
6 "Announcement to the public" is defined in the bill as the
7 use, directly or indirectly, of any print media, broadcast
8 media, electronic media, subscription internet site, internet
9 site available to the public, or any other means to make a
10 representation or statement related to an insurer's or an
11 insurer group's filings as detailed in the bill.

12 The bill provides that if an insurer or an insurer group is
13 able to demonstrate to the commissioner with substantial proof
14 the material falsity or inappropriateness of an announcement
15 made to the public by an insurer, broker, or other person
16 engaged in the business of insurance, the insurer or insurer
17 group may publish an announcement in a written publication if
18 the sole purpose of the announcement is to rebut the materially
19 false or inappropriate announcement made to the public by the
20 insurer, broker, or other person engaged in the business of
21 insurance.

22 The bill makes conforming changes to Code sections
23 511.8(22)(b)(2) and 521A.3(2)(a)(12).