

SENATE BILL 31

C3, C4

9lr0070

(PRE-FILED)

By: **Chair, Finance Committee (By Request – Departmental – Maryland Insurance Administration)**

Requested: October 15, 2018

Introduced and read first time: January 9, 2019

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Insurance – Insurance Holding Company Model Act**

3 FOR the purpose of authorizing the Maryland Insurance Commissioner to act as a
4 group-wide supervisor for an internationally active insurance group; authorizing the
5 Commissioner to acknowledge another regulatory official as a group-wide supervisor
6 for a certain internationally active insurance group; authorizing a certain insurance
7 holding company system to request that the Commissioner make a certain
8 determination or acknowledgment of a group-wide supervision for the system;
9 requiring the Commissioner to identify a single group-wide supervision for an
10 internationally active insurance group in cooperation with certain regulatory
11 agencies; authorizing the Commissioner to make a certain determination or
12 acknowledgment; requiring the Commissioner to consider certain factors when
13 making a certain determination or acknowledgment; requiring the Commissioner to
14 make a certain decision in cooperation with and subject to the acknowledgment of
15 certain other regulatory officials and in consultation with an internationally active
16 insurance group; requiring that the Commissioner acknowledge a certain regulatory
17 official as the group-wide supervisor of an internationally active insurance group
18 under certain circumstances; requiring the Commissioner to make a certain
19 determination or acknowledgment as to the appropriate single group-wide
20 supervisor for an internationally active insurance group under certain
21 circumstances; authorizing the Commissioner to collect certain information from
22 certain insurers for certain purposes; requiring the Commissioner to provide certain
23 notifications; requiring that an internationally active insurance group have at least
24 a certain number of days to provide the Commissioner with certain information;
25 requiring the Commissioner to publish certain information in the Maryland Register
26 and on the Maryland Insurance Administration's website; authorizing the
27 Commissioner to take certain actions with respect to an internationally active
28 insurance group for which the Commissioner is the appropriate single group-wide
29 supervisor; prohibiting certain agreements and documentation from serving as

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 certain evidence; requiring that certain agreements include provisions for resolving
 2 certain disputes; authorizing the Commissioner to reasonably cooperate with certain
 3 other group-wide supervisors under certain circumstances; authorizing the
 4 Commissioner to refuse recognition of and cooperation with certain regulatory
 5 officials; authorizing the Commissioner to enter into certain agreements and obtain
 6 certain documentation from certain persons; requiring certain insurers to be liable
 7 for, and to pay, certain expenses; authorizing the Commissioner to adopt certain
 8 regulations; defining certain terms; and generally relating to the supervision of
 9 insurance holding companies.

10 BY adding to

11 Article – Insurance

12 Section 2–209.2

13 Annotated Code of Maryland

14 (2017 Replacement Volume and 2018 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 16 That the Laws of Maryland read as follows:

17 **Article – Insurance**

18 **2–209.2.**

19 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
 20 INDICATED.

21 (2) “GROUP-WIDE SUPERVISOR” MEANS A REGULATORY OFFICIAL:

22 (I) AUTHORIZED TO ENGAGE IN CONDUCTING AND
 23 COORDINATING GROUP-WIDE SUPERVISION ACTIVITIES FOR AN INTERNATIONALLY
 24 ACTIVE INSURANCE GROUP; AND

25 (II) WHOM THE COMMISSIONER DETERMINES OR
 26 ACKNOWLEDGES UNDER THIS SECTION TO HAVE SUFFICIENT SIGNIFICANT
 27 CONTACTS WITH AN INTERNATIONALLY ACTIVE INSURANCE GROUP.

28 (3) “INTERNATIONALLY ACTIVE INSURANCE GROUP” MEANS AN
 29 INSURANCE HOLDING COMPANY SYSTEM THAT:

30 (I) INCLUDES, AS A MEMBER OF THE INSURANCE HOLDING
 31 COMPANY SYSTEM, AN INSURER REGISTERED UNDER § 7–601 OF THIS ARTICLE; AND

32 (II) HAS:

33 1. PREMIUMS WRITTEN IN AT LEAST THREE COUNTRIES;

1 **2. AT LEAST 10% OF ITS TOTAL GROSS WRITTEN**
2 **PREMIUMS FROM PREMIUMS WRITTEN OUTSIDE THE UNITED STATES; AND**

3 **3. BASED ON A 3-YEAR ROLLING AVERAGE, TOTAL**
4 **ASSETS OF AT LEAST \$50,000,000,000 OR TOTAL GROSS WRITTEN PREMIUMS OF AT**
5 **LEAST \$10,000,000,000.**

6 **(4) "NAIC" MEANS THE NATIONAL ASSOCIATION OF INSURANCE**
7 **COMMISSIONERS.**

8 **(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE**
9 **COMMISSIONER IS AUTHORIZED TO ACT AS A GROUP-WIDE SUPERVISOR FOR AN**
10 **INTERNATIONALLY ACTIVE INSURANCE GROUP IN ACCORDANCE WITH THE**
11 **PROVISIONS OF THIS SECTION.**

12 **(2) THE COMMISSIONER MAY ACKNOWLEDGE ANOTHER**
13 **REGULATORY OFFICIAL AS A GROUP-WIDE SUPERVISOR FOR AN INTERNATIONALLY**
14 **ACTIVE INSURANCE GROUP THAT:**

15 **(I) DOES NOT HAVE SUBSTANTIAL INSURANCE OPERATIONS IN**
16 **THE UNITED STATES;**

17 **(II) HAS SUBSTANTIAL INSURANCE OPERATIONS IN THE UNITED**
18 **STATES, BUT NOT IN THE STATE; OR**

19 **(III) HAS SUBSTANTIAL INSURANCE OPERATIONS IN THE UNITED**
20 **STATES AND IN THE STATE, IF THE COMMISSIONER DETERMINES BASED ON THE**
21 **FACTORS SPECIFIED UNDER SUBSECTIONS (D)(2) AND (H) OF THIS SECTION THAT**
22 **THE OTHER REGULATORY OFFICIAL IS AN APPROPRIATE GROUP-WIDE SUPERVISOR.**

23 **(C) AN INSURANCE HOLDING COMPANY SYSTEM THAT DOES NOT**
24 **OTHERWISE QUALIFY AS AN INTERNATIONALLY ACTIVE INSURANCE GROUP MAY**
25 **REQUEST THAT THE COMMISSIONER MAKE A DETERMINATION OR**
26 **ACKNOWLEDGMENT OF A GROUP-WIDE SUPERVISOR UNDER THIS SECTION FOR THE**
27 **INSURANCE HOLDING COMPANY SYSTEM.**

28 **(D) (1) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, IN**
29 **COOPERATION WITH OTHER STATE, FEDERAL, AND INTERNATIONAL REGULATORY**
30 **AGENCIES, THE COMMISSIONER SHALL IDENTIFY A SINGLE GROUP-WIDE**
31 **SUPERVISOR FOR AN INTERNATIONALLY ACTIVE INSURANCE GROUP.**

32 **(II) THE COMMISSIONER MAY:**

1 1. DETERMINE THAT THE COMMISSIONER IS THE
2 APPROPRIATE SINGLE GROUP-WIDE SUPERVISOR FOR AN INTERNATIONALLY
3 ACTIVE INSURANCE GROUP THAT CONDUCTS SUBSTANTIAL INSURANCE
4 OPERATIONS IN THE STATE; OR

5 2. ACKNOWLEDGE THAT A REGULATORY OFFICIAL FROM
6 ANOTHER JURISDICTION IS THE APPROPRIATE SINGLE GROUP-WIDE SUPERVISOR
7 FOR AN INTERNATIONALLY ACTIVE INSURANCE GROUP.

8 (2) THE COMMISSIONER SHALL CONSIDER THE FOLLOWING FACTORS
9 WHEN MAKING A DETERMINATION OR ACKNOWLEDGMENT UNDER PARAGRAPH
10 (1)(II) OF THIS SUBSECTION:

11 (I) THE PLACE OF DOMICILE OF THE INSURERS, AS MEMBERS
12 OF THE INTERNATIONALLY ACTIVE INSURANCE GROUP, THAT HOLD THE LARGEST
13 SHARE OF THE INTERNATIONALLY ACTIVE INSURANCE GROUP'S WRITTEN
14 PREMIUMS, ASSETS, OR LIABILITIES;

15 (II) THE PLACE OF DOMICILE OF THE TOP-TIERED INSURERS,
16 AS MEMBERS OF THE INTERNATIONALLY ACTIVE INSURANCE GROUP;

17 (III) THE LOCATION OF THE EXECUTIVE OFFICES OR LARGEST
18 OPERATIONAL OFFICES OF THE INTERNATIONALLY ACTIVE INSURANCE GROUP;

19 (IV) WHETHER ANOTHER REGULATORY OFFICIAL IS ACTING OR
20 IS SEEKING TO ACT AS A GROUP-WIDE SUPERVISOR UNDER A REGULATORY SYSTEM
21 THAT THE COMMISSIONER DETERMINES TO BE:

22 1. SUBSTANTIALLY SIMILAR TO THE REGULATORY
23 SYSTEM PROVIDED UNDER THE LAWS OF THE STATE; OR

24 2. OTHERWISE SUFFICIENT IN PROVIDING FOR
25 GROUP-WIDE SUPERVISION, ENTERPRISE RISK ANALYSIS, AND COOPERATION WITH
26 OTHER REGULATORY OFFICIALS; AND

27 (V) WHETHER ANOTHER REGULATORY OFFICIAL ACTING OR
28 SEEKING TO ACT AS A GROUP-WIDE SUPERVISOR PROVIDES THE COMMISSIONER
29 WITH REASONABLY RECIPROCAL RECOGNITION AND COOPERATION.

30 (3) IN MAKING A DECISION TO ACKNOWLEDGE ANOTHER
31 REGULATORY OFFICIAL AS THE APPROPRIATE SINGLE GROUP-WIDE SUPERVISOR

1 OF AN INTERNATIONALLY ACTIVE INSURANCE GROUP UNDER PARAGRAPH (1)(II)2
2 OF THIS SUBSECTION, THE COMMISSIONER SHALL MAKE THE DECISION:

3 (I) IN COOPERATION WITH AND SUBJECT TO THE
4 ACKNOWLEDGMENT OF OTHER REGULATORY OFFICIALS INVOLVED WITH
5 SUPERVISION OF INSURERS THAT ARE MEMBERS OF THE INTERNATIONALLY ACTIVE
6 INSURANCE GROUP; AND

7 (II) IN CONSULTATION WITH THE INTERNATIONALLY ACTIVE
8 INSURANCE GROUP.

9 (E) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, WHEN
10 ANOTHER REGULATORY OFFICIAL IS THE GROUP-WIDE SUPERVISOR FOR AN
11 INTERNATIONALLY ACTIVE INSURANCE GROUP, THE COMMISSIONER SHALL
12 ACKNOWLEDGE THAT REGULATORY OFFICIAL AS THE GROUP-WIDE SUPERVISOR OF
13 THE INTERNATIONALLY ACTIVE INSURANCE GROUP.

14 (2) THE COMMISSIONER SHALL MAKE A DETERMINATION OR
15 ACKNOWLEDGMENT UNDER SUBSECTION (D)(1)(II) OF THIS SECTION AS TO THE
16 APPROPRIATE SINGLE GROUP-WIDE SUPERVISOR FOR AN INTERNATIONALLY
17 ACTIVE INSURANCE GROUP IN THE EVENT OF A MATERIAL CHANGE IN THE
18 INTERNATIONALLY ACTIVE INSURANCE GROUP THAT RESULTS IN:

19 (I) THE INSURERS DOMICILED IN THE STATE THAT ARE
20 MEMBERS OF THE INTERNATIONALLY ACTIVE INSURANCE GROUP HOLDING THE
21 LARGEST SHARE OF THE INTERNATIONALLY ACTIVE INSURANCE GROUP'S
22 PREMIUMS, ASSETS, OR LIABILITIES; OR

23 (II) THE STATE BEING THE PLACE OF DOMICILE OF THE
24 TOP-TIERED INSURER OR INSURERS THAT ARE MEMBERS OF THE
25 INTERNATIONALLY ACTIVE INSURANCE GROUP.

26 (F) (1) IN ACCORDANCE WITH § 7-605 OF THIS ARTICLE, THE
27 COMMISSIONER MAY COLLECT FROM AN INSURER REGISTERED UNDER TITLE 7,
28 SUBTITLE 6 OF THIS ARTICLE INFORMATION NECESSARY FOR THE COMMISSIONER
29 TO DETERMINE WHETHER THE COMMISSIONER MAY:

30 (I) ACT AS AN GROUP-WIDE SUPERVISOR FOR AN
31 INTERNATIONALLY ACTIVE INSURANCE GROUP; OR

32 (II) ACKNOWLEDGE THAT ANOTHER REGULATORY OFFICIAL IS
33 THE APPROPRIATE REGULATORY OFFICIAL TO ACT AS THE GROUP-WIDE
34 SUPERVISOR FOR AN INTERNATIONALLY ACTIVE INSURANCE GROUP.

1 **(2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,**
2 **BEFORE ISSUING A DETERMINATION THAT AN INTERNATIONALLY ACTIVE**
3 **INSURANCE GROUP IS SUBJECT TO GROUP-WIDE SUPERVISION, THE**
4 **COMMISSIONER SHALL NOTIFY THE INSURER REGISTERED UNDER TITLE 7,**
5 **SUBTITLE 6 OF THIS ARTICLE THAT IS A MEMBER OF THE INTERNATIONALLY ACTIVE**
6 **INSURANCE GROUP AND THE ULTIMATE CONTROLLING PERSON WITHIN THE**
7 **INTERNATIONALLY ACTIVE INSURANCE GROUP.**

8 **(II) AN INTERNATIONALLY ACTIVE INSURANCE GROUP SHALL**
9 **HAVE AT LEAST 30 DAYS TO PROVIDE THE COMMISSIONER WITH ADDITIONAL**
10 **INFORMATION PERTINENT TO THE COMMISSIONER'S PENDING DETERMINATION.**

11 **(3) THE COMMISSIONER SHALL PUBLISH IN THE MARYLAND**
12 **REGISTER AND ON THE ADMINISTRATION'S WEBSITE THE IDENTITY OF**
13 **INTERNATIONALLY ACTIVE INSURANCE GROUPS THAT THE COMMISSIONER HAS**
14 **DETERMINED ARE SUBJECT TO GROUP-WIDE SUPERVISION.**

15 **(G) (1) IF THE COMMISSIONER IS THE APPROPRIATE SINGLE**
16 **GROUP-WIDE SUPERVISOR FOR AN INTERNATIONALLY ACTIVE INSURANCE GROUP,**
17 **THE COMMISSIONER MAY:**

18 **(I) ASSESS THE ENTERPRISE RISKS WITHIN THE**
19 **INTERNATIONALLY ACTIVE INSURANCE GROUP TO ENSURE THAT:**

20 **1. THE MATERIAL FINANCIAL CONDITION AND**
21 **LIQUIDITY RISKS TO THE INSURERS, AS MEMBERS OF THE INTERNATIONALLY**
22 **ACTIVE INSURANCE GROUP, ARE IDENTIFIED BY MANAGEMENT; AND**

23 **2. REASONABLE AND EFFECTIVE MITIGATION**
24 **MEASURES ARE IN PLACE;**

25 **(II) REQUEST FROM AN INSURER, AS A MEMBER OF AN**
26 **INTERNATIONALLY ACTIVE INSURANCE GROUP, INFORMATION NECESSARY AND**
27 **APPROPRIATE TO ASSESS ENTERPRISE RISK, INCLUDING INFORMATION ABOUT THE**
28 **INSURERS, AS MEMBERS OF THE INTERNATIONALLY ACTIVE INSURANCE GROUP,**
29 **REGARDING:**

30 **1. GOVERNANCE;**

31 **2. RISK ASSESSMENT;**

32 **3. MANAGEMENT;**

1 4. CAPITAL ADEQUACY; AND

2 5. MATERIAL INTERCOMPANY TRANSACTIONS;

3 (III) COORDINATE AND, THROUGH THE AUTHORITY OF THE
4 REGULATORY OFFICIALS OF THE JURISDICTIONS WHERE INSURERS, AS MEMBERS
5 OF THE INTERNATIONALLY ACTIVE INSURANCE GROUP, ARE DOMICILED, COMPEL
6 DEVELOPMENT AND IMPLEMENTATION OF REASONABLE MEASURES DESIGNED TO
7 ENSURE THAT THE INTERNATIONALLY ACTIVE INSURANCE GROUP IS ABLE TO
8 RECOGNIZE AND MITIGATE ENTERPRISE RISKS TO INSURERS, AS MEMBERS OF THE
9 INTERNATIONALLY ACTIVE INSURANCE GROUP, IN A TIMELY MANNER;

10 (IV) COMMUNICATE WITH OTHER STATE, FEDERAL, AND
11 INTERNATIONAL REGULATORY AGENCIES FOR INSURERS, AS MEMBERS OF THE
12 INTERNATIONALLY ACTIVE INSURANCE GROUP, AND SHARE RELEVANT
13 INFORMATION, SUBJECT TO THE CONFIDENTIALITY PROVISIONS OF § 7-605 OF THIS
14 ARTICLE, THROUGH SUPERVISORY COLLEGES UNDER § 2-209.1 OF THIS SUBTITLE;

15 (V) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION AND TO
16 PROVIDE THE BASIS FOR, OR CLARIFICATION OF, THE COMMISSIONER'S ROLE AS
17 GROUP-WIDE SUPERVISOR, ENTER INTO AGREEMENTS WITH OR OBTAIN
18 DOCUMENTATION FROM AN INSURER REGISTERED UNDER TITLE 7, SUBTITLE 6 OF
19 THIS ARTICLE;

20 (VI) REVIEW AGREEMENTS OR DOCUMENTATION THAT MAY NOT
21 SERVE AS EVIDENCE IN ANY PROCEEDING THAT ANY INSURER OR PERSON IN AN
22 INSURANCE HOLDING COMPANY SYSTEM NOT DOMICILED OR INCORPORATED IN
23 THE STATE IS DOING BUSINESS IN THE STATE OR IS OTHERWISE SUBJECT TO
24 JURISDICTION IN THE STATE; AND

25 (VII) OVERSEE OTHER GROUP-WIDE SUPERVISION ACTIVITIES,
26 CONSISTENT WITH THE AUTHORITY AND PURPOSE OF THIS SECTION, AS THE
27 COMMISSIONER CONSIDERS NECESSARY.

28 (2) (I) ANY AGREEMENTS ENTERED INTO UNDER PARAGRAPH
29 (1)(V) OF THIS SUBSECTION OR DOCUMENTATION OBTAINED UNDER PARAGRAPH
30 (1)(VI) OF THIS SUBSECTION MAY NOT SERVE AS EVIDENCE IN ANY PROCEEDING
31 THAT ANY INSURER OR PERSON OF AN INSURANCE HOLDING COMPANY SYSTEM NOT
32 DOMICILED OR INCORPORATED IN THE STATE IS DOING BUSINESS IN THE STATE OR
33 IS OTHERWISE SUBJECT TO JURISDICTION IN THE STATE.

1 **(II) ANY AGREEMENTS ENTERED INTO UNDER PARAGRAPH**
2 **(1)(V) OF THIS SUBSECTION SHALL INCLUDE PROVISIONS FOR RESOLVING DISPUTES**
3 **WITH OTHER REGULATORY OFFICIALS.**

4 **(H) IF THE COMMISSIONER ACKNOWLEDGES THAT ANOTHER REGULATORY**
5 **OFFICIAL FROM A JURISDICTION THAT IS NOT ACCREDITED BY THE NAIC IS THE**
6 **GROUP-WIDE SUPERVISOR, THE COMMISSIONER MAY REASONABLY COOPERATE,**
7 **THROUGH SUPERVISORY COLLEGES OR OTHERWISE, WITH GROUP-WIDE**
8 **SUPERVISION UNDERTAKEN BY THE GROUP-WIDE SUPERVISOR, IF:**

9 **(1) THE COMMISSIONER'S COOPERATION IS IN COMPLIANCE WITH**
10 **THE LAWS OF THE STATE;**

11 **(2) THE REGULATORY OFFICIAL ACKNOWLEDGED AS THE**
12 **GROUP-WIDE SUPERVISOR RECOGNIZES AND COOPERATES WITH THE**
13 **COMMISSIONER'S ACTIVITIES AS A GROUP-WIDE SUPERVISOR FOR OTHER**
14 **INTERNATIONALLY ACTIVE INSURANCE GROUPS WHERE APPLICABLE; AND**

15 **(3) THE RECOGNITION AND COOPERATION IS REASONABLY**
16 **RECIPROCAL.**

17 **(I) IF A REGULATORY OFFICIAL FROM A JURISDICTION THAT IS NOT**
18 **ACCREDITED BY THE NAIC IS THE GROUP-WIDE SUPERVISOR BUT DOES NOT**
19 **RECOGNIZE OR COOPERATE WITH THE COMMISSIONER'S ACTIVITIES AS A**
20 **GROUP-WIDE SUPERVISOR OR IS NOT REASONABLY RECIPROCAL, THE**
21 **COMMISSIONER MAY REFUSE RECOGNITION AND COOPERATION.**

22 **(J) THE COMMISSIONER MAY ENTER INTO AGREEMENTS WITH OR OBTAIN**
23 **DOCUMENTATION FROM:**

24 **(1) AN INSURER REGISTERED UNDER TITLE 7, SUBTITLE 6 OF THIS**
25 **ARTICLE;**

26 **(2) AN AFFILIATE OF AN INSURER REGISTERED UNDER TITLE 7,**
27 **SUBTITLE 6 OF THIS ARTICLE; AND**

28 **(3) OTHER STATE, FEDERAL, AND INTERNATIONAL REGULATORY**
29 **AGENCIES FOR MEMBERS OF THE INTERNATIONALLY ACTIVE INSURANCE GROUP,**
30 **THAT PROVIDE THE BASIS FOR, OR CLARIFY, A REGULATORY OFFICIAL'S ROLE AS**
31 **GROUP-WIDE SUPERVISOR.**

32 **(K) A REGISTERED INSURER SUBJECT TO THIS SECTION SHALL BE LIABLE**
33 **FOR, AND SHALL PAY, THE REASONABLE EXPENSES OF THE COMMISSIONER'S**

1 PARTICIPATION IN THE ADMINISTRATION OF THIS SECTION, INCLUDING THE
2 ENGAGEMENT OF ATTORNEYS, ACTUARIES, AND ANY OTHER PROFESSIONALS AND
3 REASONABLE TRAVEL EXPENSES.

4 (L) THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THIS
5 SECTION.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2019.