

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 31

(Chair, Finance Committee)(By Request - Departmental -
Maryland Insurance Administration)

Finance

Economic Matters

Insurance - Insurance Holding Company Model Act

This departmental bill adopts changes made to the National Association of Insurance Commissioners' (NAIC) Model Act #440 "Insurance Holding Company System Regulatory Act." Primarily, the bill authorizes the Insurance Commissioner to act as the "group-wide supervisor" for an "internationally active insurance group." The Commissioner may adopt regulations to implement the bill.

Fiscal Summary

State Effect: The bill's requirements can be handled using existing budgeted resources. Revenues are not anticipated to be materially affected.

Local Effect: None.

Small Business Effect: The Maryland Insurance Administration (MIA) has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: "Group-wide supervisor" means a regulatory official authorized to engage in conducting and coordinating group-wide supervision activities for an internationally active insurance group and whom the Commissioner determines or acknowledges to have sufficient significant contacts with an internationally active insurance group. "Internationally active insurance group" means an insurance holding company system that

includes a registered insurer as a member and (1) has premiums written in at least three countries; (2) at least 10% of its total gross written premiums from premiums written outside the United States; and (3) based on a three-year rolling average, total assets of at least \$50 billion or total gross written premiums of at least \$10 billion.

Group-wide Supervisor Required for Internationally Active Insurance Groups

The Commissioner must work with other state, federal, and international regulatory agencies to identify a single group-wide supervisor for an internationally active insurance group. The Commissioner may (1) act as the group-wide supervisor for an internationally active insurance group with substantial insurance operations in the State or (2) acknowledge another regulatory official as the group-wide supervisor when appropriate and under specified circumstances. Generally, if an internationally active insurance group already has a group-wide supervisor, then the Commissioner must acknowledge that regulatory official as the group's supervisor. The bill generally enumerates the factors that must be taken into consideration when determining who should be the group-wide supervisor for each internationally active insurance group and authorizes the Commissioner to collect related information from insurers to do so.

If the Commissioner acknowledges that another regulatory official from a jurisdiction that is not accredited by NAIC is the group-wide supervisor, the Commissioner may reasonably cooperate if the recognition and cooperation is reasonably reciprocal. If a regulatory official from a jurisdiction that is not accredited by NAIC is the group-wide supervisor, but does not recognize or cooperate with the Commissioner's supervisory activities or is not reasonably reciprocal, the Commissioner may refuse recognition and cooperation.

An insurance holding company that does not qualify as an internationally active insurance group may request that the Commissioner acknowledge its group-wide supervisor.

Supervisory Powers

When acting as the group-wide supervisor for an internationally active insurance group, the Commissioner may:

- assess the enterprise risks within the group to check its financial condition and that reasonable and effective mitigation measures are in place;
- request from an insurer the information necessary and appropriate to assess enterprise risk;
- coordinate and compel development and implementation of reasonable measures designed to ensure that the internationally active insurance group is able to recognize and mitigate enterprise risks to insurers in a timely manner;

- communicate with other regulatory agencies and share relevant information;
- enter into agreements with, or obtain documentation from, specified entities; and
- oversee other group-wide supervision activities.

A registered insurer being overseen must pay the reasonable expenses of the Commissioner's participation as supervisor, including the engagement of attorneys, actuaries, and other professionals and reasonable travel expenses.

Current Law: Chapter 115 of 2013 established NAIC Model Act #440 "Insurance Holding Company System Regulatory Act," creating a framework for MIA supervision and oversight of insurance groups. Specifically, Chapter 115 authorized the Commissioner to participate in supervisory colleges, which are meetings of state, federal, and international insurance regulatory agencies. Chapter 115 enumerated the powers the Commissioner holds with respect to the supervisory college and required insurers to reimburse any reasonable expenses for the Commissioner's participation.

Background: As the primary regulator of the insurance industry in the State, MIA performs actuarial evaluations, financial audits, financial examinations, and market conduct examinations to ensure that insurers remain financially solvent and comply with State laws.

MIA and the Commissioner participate in the activities of NAIC, a national standard-setting and regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia, and five U.S. territories. MIA achieved NAIC accredited status in September 1994 and has maintained its accreditation since that time. The NAIC Accreditation Program is a voluntary program among state insurance regulators that emphasizes the importance of adequate solvency laws, the use of effective and efficient financial analysis and examination procedures, and appropriate organizational and personnel practices.

NAIC regularly develops model legislation concerning new and existing insurance issues and encourages its member regulators to adopt this legislation. Consequently, the bill implements changes to Model Act #440 to ensure MIA's continued NAIC accreditation. MIA advises that adoption must occur before January 1, 2020, and that the bill is necessary for MIA to participate in group-wide supervision activities.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Insurance Administration; National Association of Insurance Commissioners; Department of Legislative Services

Fiscal Note History: First Reader - January 24, 2019
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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Insurance – Insurance Holding Company Model Act - Revisions

BILL NUMBER: SB 31

PREPARED BY:
(Dept./Agency) Maryland Insurance Administration

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

Maryland adopted the National Association of Insurance Commissioners’ (NAIC) Model Act #440 “Insurance Holding Company System Regulatory Act” in 2013 through House Bill 431. The Model Act provides a framework for insurance group supervision. In 2014, the NAIC adopted changes to the Model Act to clarify the legal authority and power of a state to act as a group-wide supervisor for internationally active insurance groups (IAIGs), as well as the authority for domestic regulators to cooperate in requiring certain action by the insurance holding company system (IHCS).

Specific authority granted to group-wide supervisors through the amendments include the ability to request group level information, assess the enterprise risks affecting the group, compel the development and implementation of reasonable measures to recognize and mitigate enterprise risks, and communicate and share group-wide information with other regulators. States with U.S.-based insurance groups where that state would be considered the group-wide supervisor of an IAIG are expected to adopt the revised language. Other states should adopt this model because of its consideration of state regulatory cooperation to require certain action by the IHCS.

Adoption of the 2014 changes to the Model Act will provide the State and the Maryland Insurance Administration (MIA) authority to engage in group-wide supervision activities such as requesting group level information, assessing enterprise risks affecting the group, compelling the

development and implementation of reasonable measures to recognize and mitigate enterprise risks, and communicating and sharing group-wide information with other regulators.

Model Act 440 2014 revisions are an accreditation requirement for the Maryland Insurance Administration's continued acceptance as a qualifying examination agency which can be relied upon by other jurisdictions. Adoption must occur before January 1, 2020.

Insofar as carriers are small businesses, additional compliance costs will be nominal.