



General Assembly

**Substitute Bill No. 194**

February Session, 2014



**AN ACT CONCERNING RISK MANAGEMENT AND OWN RISK AND SOLVENCY ASSESSMENTS FOR DOMESTIC INSURERS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective January 1, 2015*) (a) As used in this  
2 section:

3 (1) "Insurance group" means those insurers and affiliates included  
4 within an insurance holding company system, as defined in section  
5 38a-129 of the general statutes;

6 (2) "Insurer" includes any person or combination of persons doing  
7 any kind or form of insurance business and includes a receiver of any  
8 insurer when the context reasonably permits. "Insurer" does not  
9 include agencies, authorities or instrumentalities of the United States,  
10 its possessions and territories, the Commonwealth of Puerto Rico, the  
11 District of Columbia, or a state or political subdivision of a state;

12 (3) "NAIC" means the National Association of Insurance  
13 Commissioners;

14 (4) "ORSA" or "Own Risk and Solvency Assessment" means a  
15 confidential internal assessment conducted by an insurer or insurance  
16 group, appropriate to the nature, scale and complexity of such insurer  
17 or insurance group, of the material and relevant risks associated with  
18 the insurer or insurance group's current business plan and the

19 sufficiency of capital resources to support those risks;

20 (5) "ORSA Guidance Manual" means the current version of NAIC's  
21 Own Risk and Solvency Assessment Guidance Manual, as amended  
22 from time to time;

23 (6) "ORSA Summary Report" means a confidential high-level  
24 summary of an insurer or insurance group's ORSA;

25 (7) "Person" has the same meaning as provided in section 38a-1 of  
26 the general statutes.

27 (b) (1) Each domestic insurer shall establish and maintain a risk  
28 management framework to assist the insurer with identifying,  
29 assessing, monitoring, managing and reporting on its material and  
30 relevant risks. This requirement may be satisfied if the insurance  
31 group of which such insurer is a member maintains a risk management  
32 framework applicable to the operations of such insurer.

33 (2) Each domestic insurer or the insurance group of which such  
34 insurer is a member shall regularly conduct an ORSA consistent with a  
35 process comparable to that set forth in the ORSA Guidance Manual.  
36 Any change in the ORSA Guidance Manual shall be effective January  
37 first following the calendar year in which such change was adopted by  
38 NAIC. The ORSA shall be conducted at least annually and at any time  
39 when there are significant changes to the risk profile of such insurer or  
40 insurance group.

41 (c) Commencing January 1, 2015, upon request by the Insurance  
42 Commissioner, and not more than once each year, a domestic insurer  
43 shall submit to the commissioner an ORSA Summary Report and any  
44 combination of reports that together contain the information described  
45 in the ORSA Guidance Manual that is applicable to such insurer and  
46 insurance group. The date of submission of such report or reports shall  
47 be dependent on when such insurer or insurance group conducts its  
48 internal strategic planning process. If the commissioner is the lead  
49 state commissioner, as determined by the procedures in NAIC's

50 applicable financial analysis handbook, of the insurance group of  
51 which such insurer is a member, such insurer shall submit to the  
52 commissioner the reports required under this subsection once each  
53 year regardless of whether the commissioner has requested such  
54 reports. A domestic insurer may comply with this subsection by  
55 providing the most recent and substantially similar reports that were  
56 provided by such insurer or another member of the insurance group of  
57 which such insurer is a member to the insurance regulatory official of  
58 another state or a foreign jurisdiction and that provide information  
59 that is comparable to the information described in the ORSA Guidance  
60 Manual. Any such report in a language other than English shall be  
61 accompanied by a translation of that report into the English language.

62 (d) Each domestic insurer or the insurance group of which such  
63 insurer is a member shall prepare an ORSA Summary Report  
64 consistent with the standards set forth in the ORSA Guidance Manual.  
65 Such insurer or insurance group shall maintain documentation and  
66 supporting information of an ORSA and shall make such  
67 documentation and information available for examination upon  
68 request by the commissioner. The commissioner or the commissioner's  
69 designee shall review the ORSA Summary Report and such  
70 documentation or information using procedures similar to those  
71 currently used in the analysis and examination of multistate or global  
72 insurers and insurance groups.

73 (e) The ORSA Summary Report shall include the signature of the  
74 domestic insurer's or insurance group's chief risk officer or other  
75 executive having responsibility for the oversight of the insurer's  
76 enterprise risk management process, attesting that, to the best of such  
77 officer's or executive's belief and knowledge, the insurer applied the  
78 enterprise risk management process described in the ORSA Summary  
79 Report and that a copy of the report has been provided to the insurer's  
80 board of directors or appropriate committee thereof.

81 (f) The commissioner, after notice and hearing, may impose a civil  
82 penalty on a domestic insurer that fails, without just cause, to timely

83 file an ORSA Summary Report, of one thousand dollars for each day  
84 the failure to file a report continues. The commissioner may reduce the  
85 penalty if the insurer demonstrates to the commissioner that the  
86 imposition of the penalty would constitute a financial hardship to the  
87 insurer.

88 (g) (1) A domestic insurer shall be exempt from the requirements of  
89 subsections (b) to (e), inclusive, of this section if (A) such insurer has  
90 annual direct written and unaffiliated assumed premiums, including  
91 international direct and assumed premiums but excluding premiums  
92 reinsured with the Federal Crop Insurance Corporation and the  
93 National Flood Insurance Program, of less than five hundred million  
94 dollars, and (B) the insurance group of which such insurer is a member  
95 has annual direct written and unaffiliated assumed premiums,  
96 including international direct and assumed premiums but excluding  
97 premiums reinsured with the Federal Crop Insurance Corporation and  
98 the National Flood Insurance Program of less than one billion dollars.

99 (2) If an insurer qualifies for an exemption pursuant to  
100 subparagraph (A) of subdivision (1) of this subsection but the  
101 insurance group of which such insurer is a member does not qualify  
102 for an exemption pursuant to subparagraph (B) of subdivision (1) of  
103 this subsection, the ORSA Summary Report shall include every insurer  
104 within such insurance group. This requirement may be satisfied by the  
105 submission of more than one ORSA Summary Report for any  
106 combination of insurers, provided such combination of reports  
107 includes every insurer within such insurance group.

108 (3) If an insurer does not qualify for an exemption pursuant to  
109 subparagraph (A) of subdivision (1) of this subsection but the  
110 insurance group of which such insurer is a member qualifies for an  
111 exemption pursuant to subparagraph (B) of subdivision (1) of this  
112 subsection, the only ORSA Summary Report required shall be the  
113 report applicable to such insurer.

114 (4) An insurer that does not qualify for an exemption pursuant to

115 subparagraph (A) of subdivision (1) of this subsection may apply to  
116 the commissioner for a waiver from the requirements of subsections  
117 (b) to (e), inclusive, of this section, based on unique circumstances. In  
118 deciding whether to grant the insurer's request for a waiver, the  
119 commissioner may consider the type and volume of business written,  
120 ownership and organizational structure of the insurer and any other  
121 factors the commissioner considers relevant to the insurer or insurance  
122 group of which such insurer is a member. If the insurer is part of an  
123 insurance group with insurers domiciled in more than one state, the  
124 commissioner shall coordinate with the lead state commissioner, as  
125 determined by the procedures in NAIC's applicable financial analysis  
126 handbook, of such insurance group and with the other insurance  
127 regulatory officials of member insurers' states of domicile in  
128 considering whether to grant the insurer's request for a waiver.

129 (5) If an insurer that qualifies for an exemption pursuant to  
130 subdivision (1) of this subsection subsequently no longer qualifies for  
131 such exemption due to changes in premiums as reflected in the  
132 insurer's most recent annual statement or in the most recent annual  
133 statements of the insurers within the insurance group of which such  
134 insurer is a member, such insurer shall have one year following the  
135 year the threshold is exceeded to comply with the requirements of  
136 subsections (b) to (e), inclusive, of this section.

137 (6) Notwithstanding the exemptions in this subsection, the  
138 commissioner may require that a domestic insurer comply with the  
139 requirements of subsections (b) to (e), inclusive, of this section: (A)  
140 Based on unique circumstances including, but not limited to, the type  
141 and volume of business written, ownership and organizational  
142 structure of the insurer and requests from a federal agency or the  
143 insurance regulatory official of a foreign jurisdiction; or (B) if the  
144 insurer (i) has risk-based capital for a company action level event, as  
145 set forth in sections 38a-72-1 to 38a-72-13, inclusive, and 38a-193-1 to  
146 38a-193-13, inclusive, of the regulations of Connecticut state agencies,  
147 (ii) meets one or more of the standards of an insurer deemed to be in a

148 hazardous financial condition, as set forth in section 38a-8-103 of the  
149 regulations of Connecticut state agencies, or (iii) otherwise exhibits  
150 qualities of a troubled insurer as determined by the commissioner.

151 (h) (1) All documents, materials or other information, including the  
152 ORSA Summary Report, in the possession or control of the Insurance  
153 Department that are obtained by, created by or disclosed to the  
154 commissioner or any other person pursuant to subsections (b) to (e),  
155 inclusive, or subsection (g) of this section shall be confidential by law  
156 and privileged, shall not be subject to disclosure under section 1-210 of  
157 the general statutes, shall not be subject to subpoena and shall not be  
158 subject to discovery or admissible in evidence in any civil action in this  
159 state. The commissioner may use such documents, materials or  
160 information in the furtherance of any regulatory or legal action  
161 brought as a part of the commissioner's official duties. The  
162 commissioner shall not otherwise make such documents, materials or  
163 other information public without the prior written consent of the  
164 insurer.

165 (2) Neither the commissioner nor any person who, while acting  
166 under the authority of the commissioner, obtained or created  
167 documents, materials or other information pursuant to subsections (b)  
168 to (e), inclusive, or subsection (g) of this section, or to whom such  
169 documents, materials or other information were disclosed, through  
170 examination or otherwise, shall be permitted or required to testify in  
171 any civil action in this state concerning any such documents, materials  
172 or information.

173 (i) (1) To assist the commissioner in the performance of the  
174 commissioner's regulatory duties, the commissioner:

175 (A) May share upon request documents, materials or other  
176 information set forth in subdivision (1) of subsection (h) of this section,  
177 including documents, materials or information deemed confidential  
178 and privileged or not disclosable pursuant to said subdivision, with (i)  
179 other state, federal and international regulatory officials, including

180 members of a supervisory college as described in section 38a-135 of the  
181 general statutes, (ii) NAIC, and (iii) any third-party consultants  
182 designated by the commissioner, provided the recipient of any such  
183 documents, materials or other information agrees, in writing, to  
184 maintain the confidentiality and privileged status of such documents,  
185 materials or other information and has verified, in writing, the  
186 recipient's legal authority to maintain confidentiality, and further  
187 provided the commissioner obtains the written consent of the insurer  
188 prior to sharing any such documents, materials or other information;

189 (B) May receive ORSA-related documents, materials or other  
190 information, including documents, materials or information deemed  
191 confidential and privileged, from regulatory officials of other states or  
192 foreign jurisdictions, including members of a supervisory college as  
193 described in section 38a-135 of the general statutes, and NAIC. The  
194 commissioner shall maintain as confidential and privileged any  
195 documents, materials or information received with notice or the  
196 understanding that such documents, materials or information are  
197 confidential and privileged under the laws of the jurisdiction that is  
198 the source of such documents, materials or information; and

199 (C) Shall enter into a written agreement with NAIC or a third-party  
200 consultant, governing the sharing and use of documents, materials and  
201 information shared or received pursuant to subparagraph (A) or (B) of  
202 this subdivision. Any such agreement shall (i) specify policies and  
203 procedures regarding the confidentiality and security of such  
204 documents, materials or other information that are shared with NAIC  
205 or a third-party consultant, including (I) procedures and protocols  
206 limiting sharing by NAIC to only regulatory officials of states in which  
207 other member insurers of the insurance group of which a domestic  
208 insurer is a member are domiciled, and (II) a provision requiring NAIC  
209 or a third-party consultant to agree, in writing, and if applicable, a  
210 provision requiring NAIC to obtain from a regulatory official under  
211 subparagraph (C)(i)(I) of this subdivision an agreement, in writing, to  
212 maintain the confidentiality and privileged status of such documents,

213 materials or other information, and verifying the recipient's legal  
214 authority to maintain confidentiality; (ii) specify that the commissioner  
215 shall retain ownership of such documents, materials or other  
216 information and that the use of such documents, materials or other  
217 information is subject to the commissioner's discretion; (iii) prohibit  
218 NAIC or the third-party consultant from storing such documents,  
219 materials or other information in a permanent database after the  
220 underlying analysis is completed; (iv) require prompt notice to be  
221 given to an insurer whose confidential information is in the possession  
222 of NAIC or a third-party consultant if NAIC or the third-party  
223 consultant is subject to a request or subpoena for disclosure or  
224 production of such documents, materials or other information; and (v)  
225 require NAIC or the third-party consultant, if NAIC or such consultant  
226 is subject to disclosure of an insurer's confidential documents,  
227 materials or other information that has been shared with NAIC or such  
228 consultant pursuant to subparagraph (A) of this subdivision, to allow  
229 such insurer to intervene in any judicial or administrative action  
230 regarding such disclosure.

231 (2) No waiver of any applicable privilege or claim of confidentiality  
232 in any documents, materials or other information thereof shall occur as  
233 a result of disclosure to the commissioner or of sharing in accordance  
234 with this subsection. Nothing in this subsection shall be construed to  
235 delegate any regulatory authority of the commissioner to any person  
236 or entity with which any documents, materials or other information  
237 thereof have been shared.

238 (3) The ORSA Summary Report and any related documents,  
239 materials or other information thereof in the possession or control of  
240 NAIC or a third-party consultant pursuant to this subsection shall be  
241 confidential by law and privileged, shall not be subject to disclosure  
242 under section 1-210 of the general statutes, shall not be subject to  
243 subpoena and shall not be subject to discovery or admissible in  
244 evidence in any civil action in this state.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>January 1, 2015</i>	New section
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**INS**      *Joint Favorable Subst. -LCO*

**JUD**      *Joint Favorable*