



Senate

General Assembly

File No. 318

February Session, 2014

Senate Bill No. 196

Senate, April 3, 2014

The Committee on Insurance and Real Estate reported through SEN. CRISCO of the 17th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING GROUP-WIDE SUPERVISION FOR INTERNATIONALLY ACTIVE INSURANCE GROUPS.

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

1 Section 1. (NEW) (*Effective October 1, 2014*) (a) As used in this
2 section: (1) "Group-wide supervisor" means the chief insurance
3 regulatory official (A) authorized by such official's jurisdiction to
4 conduct and coordinate group-wide supervisory activities, and (B)
5 whose jurisdiction has been determined or acknowledged by the
6 Insurance Commissioner pursuant to subdivisions (2) and (3) of
7 subsection (b) of this section to have sufficient significant contacts with
8 an internationally active insurance group; and (2) "internationally
9 active insurance group" means any insurance holding company system
10 that includes an insurance company registered pursuant to section 38a-
11 135 of the general statutes.

12 (b) (1) The Insurance Commissioner may act as a group-wide
13 supervisor for any internationally active insurance group.

14 (2) (A) The commissioner may determine, in cooperation with other
15 group-wide supervisors, that the commissioner is the appropriate
16 group-wide supervisor for an internationally active insurance group
17 that conducts substantial insurance business operations in this state or
18 has subsidiaries that conduct substantial insurance business operations
19 in this state.

20 (B) The commissioner may acknowledge that the chief insurance
21 regulatory official of another jurisdiction is an appropriate group-wide
22 supervisor for an internationally active insurance group that (i) does
23 not conduct substantial insurance business operations in the United
24 States, (ii) conducts substantial insurance business operations in the
25 United States but not in this state, or (iii) conducts substantial
26 insurance business operations in the United States and in this state but
27 the commissioner has determined, pursuant to the factors set forth in
28 subdivision (3) of this subsection that the chief insurance regulatory
29 official of another jurisdiction is the appropriate group-wide
30 supervisor.

31 (3) The commissioner shall consider the following relevant factors
32 and the relative scale of each in making a determination or
33 acknowledgment under subdivision (2) of this subsection:

34 (A) The location of the home office of the internationally active
35 insurance group or the place of domicile of the ultimate controlling
36 person of the internationally active insurance group;

37 (B) The locations of executive offices of the internationally active
38 insurance group;

39 (C) The locations of origin of the insurance business of the
40 internationally active insurance group;

41 (D) The locations of the assets and liabilities of the internationally
42 active insurance group;

43 (E) The locations of the business operations and activities of the
44 internationally active insurance group; and

45 (F) Whether (i) the chief insurance regulatory official of another
46 jurisdiction is acting or seeking to act as the group-wide supervisor
47 under a regulatory system the commissioner determines to be
48 substantially equivalent to that provided under the laws of this state or
49 is otherwise sufficient in terms of group-wide supervision, enterprise
50 risk analysis and cooperation with other chief insurance regulatory
51 officials, and (ii) such chief insurance regulatory official acting or
52 seeking to act as the group-wide supervisor provides the Insurance
53 Department with reasonably reciprocal recognition and cooperation.

54 (c) (1) The commissioner may collect, pursuant to section 38a-14a of
55 the general statutes, as amended by this act, from any insurance
56 company registered pursuant to section 38a-135 of the general statutes
57 any information necessary for the department to determine whether
58 the commissioner may act as the group-wide supervisor of an
59 internationally active insurance group or to acknowledge that another
60 chief insurance regulatory official of another jurisdiction should act as
61 the group-wide supervisor of such insurance group.

62 (2) Prior to issuing any determination or acknowledgment under
63 this section, the commissioner shall notify the member insurance
64 company registered pursuant to section 38a-135 of the general statutes
65 and the ultimate controlling person, of an internationally active
66 insurance group, of such pending determination or acknowledgment.
67 The commissioner shall provide the internationally active insurance
68 group at least thirty calendar days to submit any additional
69 information pertinent to such determination or acknowledgment that
70 is requested by the commissioner or that such insurance group chooses
71 to submit. The department shall notify such insurance company and
72 ultimate controlling person of its determination or acknowledgment
73 and shall post on the Insurance Department's Internet web site a
74 current list of internationally active insurance groups the
75 commissioner has determined are subject to group-wide supervision
76 by the commissioner.

77 (d) The commissioner may conduct and coordinate the following

78 activities for an internationally active insurance group for which the
79 commissioner is the group-wide supervisor:

80 (1) Assess, pursuant to section 38a-14a of the general statutes, as
81 amended by this act, the enterprise risks within the internationally
82 active insurance group to ensure that material financial conditions of
83 and liquidity risks to the members of such insurance group that are
84 engaged in the business of insurance are identified by management
85 and that reasonable and effective mitigation measures are in place;

86 (2) Request from any member of the internationally active insurance
87 group information necessary and appropriate to assess enterprise risk,
88 including, but not limited to, information about governance, risk
89 assessment and management, capital adequacy and material
90 intercompany transactions;

91 (3) Compel development and implementation of reasonable
92 measures designed to ensure the internationally active insurance
93 group is able to timely recognize and mitigate material risks to the
94 members of such insurance group that are engaged in the business of
95 insurance;

96 (4) Communicate with insurance regulatory officials of the members
97 of the internationally active insurance group and share relevant
98 information, subject to the confidentiality provisions of section 38a-137
99 of the general statutes, as amended by this act, through a supervisory
100 college, as set forth in subsection (n) of section 38a-135 of the general
101 statutes;

102 (5) Enter into agreements with or obtain documentation from any
103 member insurance company registered pursuant to section 38a-135 of
104 the general statutes, any other member of the internationally active
105 insurance group and any chief insurance regulatory official of another
106 jurisdiction, to establish or clarify the commissioner's role as group-
107 wide supervisor and that may include provisions for resolving
108 disputes with other relevant supervisory authorities. No such
109 agreement or documentation shall serve as evidence that an insurance

110 company or person within an insurance company holding system that
111 is not incorporated in this state is doing business in this state or is
112 otherwise subject to the jurisdiction of this state; and

113 (6) Other activities deemed appropriate by the commissioner to
114 effectuate the purposes of this section and sections 38a-129 to 38a-140,
115 inclusive, of the general statutes, as amended by this act.

116 (e) If the commissioner acknowledges that a regulatory official of a
117 jurisdiction not accredited by NAIC is the group-wide supervisor of an
118 internationally active insurance group, the commissioner shall
119 reasonably cooperate through a supervisory college or otherwise with
120 group supervision undertaken by such group-wide supervisor,
121 provided such cooperation is in compliance with the laws of this state
122 and such group-wide supervisor recognizes and cooperates with the
123 commissioner's activities as a group-wide supervisor for other
124 internationally active insurance groups, where applicable. The
125 commissioner may refuse to cooperate if the commissioner determines
126 such recognition and cooperation are not reasonably reciprocated. The
127 commissioner may enter into agreements with or obtain
128 documentation from any member insurance company registered
129 pursuant to section 38a-135 of the general statutes, any affiliate of such
130 insurance company and any regulatory official of another jurisdiction
131 serving as the group-wide supervisor of an internationally active
132 insurance group, to establish or clarify such official's role as group-
133 wide supervisor.

134 (f) The commissioner may adopt regulations, in accordance with the
135 provisions of chapter 54 of the general statutes, to carry out the
136 provisions of this section.

137 (g) An insurance company registered pursuant to section 38a-135 of
138 the general statutes and subject to this section shall be liable for and
139 shall pay the reasonable expenses of the commissioner's administration
140 of this section, including the engagement of the services of attorneys,
141 actuaries and other professionals and all reasonable travel expenses.

142 Sec. 2. Subsection (a) of section 38a-14a of the general statutes is
143 repealed and the following is substituted in lieu thereof (*Effective*
144 *October 1, 2014*):

145 (a) With regard to any insurance company registered under section
146 38a-135, subject to the limitation contained in this section and in
147 addition to the powers that the Insurance Commissioner has under
148 sections 38a-14 and 38a-15 relating to the examination of insurance
149 companies, the commissioner shall have the power to:

150 (1) Examine such company or its affiliates to ascertain the financial
151 condition of the company, including the enterprise risk of such
152 company by (A) the company's ultimate controlling person, (B) any
153 member or combination of members within its insurance holding
154 company system, or (C) its insurance holding company system on a
155 consolidated basis; and

156 (2) (A) Order such company to produce such records, books or other
157 information in the possession of the insurance company or its affiliates
158 as are reasonably necessary to determine compliance with sections 38a-
159 129 to 38a-140, inclusive, as amended by this act, and section 1 of this
160 act. In the event such insurance company fails to comply with such
161 order, the commissioner shall have the power to examine any such
162 affiliate to obtain such information.

163 (B) The commissioner may order the registered insurance company
164 to produce records, books or other information not in its possession if
165 the company can obtain access to such records, books or other
166 information pursuant to a contractual agreement, a statutory
167 obligation or other method. If the insurance company cannot obtain
168 access to such records, books or other information, the company shall
169 provide to the commissioner a detailed explanation of the reason the
170 company cannot obtain the requested records, books or other
171 information, and the identity of the holder of such records, books or
172 other information. If the commissioner deems the explanation to be
173 without merit, the delay in producing the requested records, books or
174 other information under this subparagraph shall be grounds for

175 administrative action in accordance with subsection (c) of section 38a-
176 41.

177 Sec. 3. Subsection (a) of section 38a-137 of the general statutes is
178 repealed and the following is substituted in lieu thereof (*Effective*
179 *October 1, 2014*):

180 (a) All information, documents, materials and copies thereof
181 obtained by or disclosed to the commissioner or any other person in
182 the course of an examination or investigation made pursuant to section
183 38a-14a and all information reported, furnished or filed pursuant to
184 sections 38a-135 and 38a-136 and section 1 of this act shall (1) be
185 confidential by law and privileged, (2) not be subject to disclosure
186 under section 1-210, (3) not be subject to subpoena, and (4) not be
187 subject to discovery or admissible in evidence in any civil action. The
188 commissioner shall not make such information, documents, materials
189 or copies public without the prior written consent of the insurance
190 company to which it pertains unless the commissioner, after giving the
191 insurance company and its affiliates who would be affected thereby
192 notice and opportunity to be heard, determines that the interests of
193 policyholders, securityholders or the public will be served by the
194 publication thereof, in which event the commissioner may publish all
195 or any part thereof in such manner as the commissioner may deem
196 appropriate. The commissioner may use such information, documents,
197 materials or copies in the furtherance of any regulatory or legal action
198 brought as part of the commissioner's official duties.

199 Sec. 4. Subsection (b) of section 38a-129 of the general statutes is
200 repealed and the following is substituted in lieu thereof (*Effective*
201 *October 1, 2014*):

202 (b) As used in sections 38a-129 to 38a-140, inclusive, and section 1 of
203 this act, the following terms shall have the respective meanings
204 hereinafter set forth, unless the context shall otherwise require:

205 (1) "Affiliate" or "affiliated" has the same meaning as provided in
206 section 38a-1;

207 (2) "Commissioner" means the Insurance Commissioner and any
208 assistant to the Insurance Commissioner designated and authorized by
209 the commissioner while acting under such designation;

210 (3) "Control", "controlled by" or "under common control with" has
211 the same meaning as provided in section 38a-1. Control shall be
212 presumed to exist if any person, directly or indirectly, owns, controls,
213 holds with the power to vote, or holds proxies representing, ten per
214 cent or more of the voting securities of any other person. This
215 presumption may be rebutted by a showing that control does not exist
216 in fact. The commissioner may determine, after furnishing all persons
217 in interest notice and opportunity to be heard and making specific
218 findings of fact to support the determination, that control exists in fact,
219 notwithstanding the absence of a presumption to that effect;

220 (4) "Enterprise risk" means any activity, circumstance, event or
221 series of events involving one or more affiliates of an insurer that, if
222 not remedied promptly, is likely to have a material adverse effect upon
223 the financial condition or liquidity of the insurer or the insurer's
224 insurance holding company system as a whole, including, but not
225 limited to, any activity, circumstance, event or series of events that
226 would cause an insurer's risk-based capital to fall below minimum
227 threshold levels, as described in subsection (d) of section 38a-72 or, for
228 a health care center, in subdivision (2) of subsection (a) of section 38a-
229 193, or would cause the insurer to be in a hazardous financial
230 condition;

231 (5) "Insurance holding company system" means two or more
232 affiliated persons, one or more of which is an insurance company;

233 (6) "Insurance company" or "insurer" has the same meaning as
234 provided in section 38a-1, except that it does not include agencies,
235 authorities or instrumentalities of the United States, its possessions
236 and territories, the Commonwealth of Puerto Rico, the District of
237 Columbia, or a state or political subdivision of a state;

238 (7) "NAIC" means the National Association of Insurance

239 Commissioners;

240 (8) "Person" has the same meaning as provided in section 38a-1, or
241 any combination of persons so defined acting in concert;

242 (9) A "securityholder" of a specified person means one who owns
243 any security of such person, including common stock, preferred stock,
244 debt obligations and any other security convertible into or evidencing
245 the right to acquire any of the foregoing;

246 (10) "Subsidiary" has the same meaning as provided in section 38a-1;

247 (11) "Voting security" includes any security convertible into or
248 evidencing a right to acquire a voting security.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2014</i>	New section
Sec. 2	<i>October 1, 2014</i>	38a-14a(a)
Sec. 3	<i>October 1, 2014</i>	38a-137(a)
Sec. 4	<i>October 1, 2014</i>	38a-129(b)

INS *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note***State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill makes a variety of changes to the statutes concerning the oversight of internationally active insurance groups. As these changes largely clarify the Insurance Department's existing authority, there is no fiscal impact.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis**SB 196*****AN ACT CONCERNING GROUP-WIDE SUPERVISION FOR INTERNATIONALLY ACTIVE INSURANCE GROUPS.*****SUMMARY:**

This bill specifies when the Connecticut insurance commissioner or his counterpart in another jurisdiction may act as a group-wide supervisor for an internationally active insurance group. It specifies the commissioner's powers and responsibilities in this role. The bill applies to groups that include a company that is authorized to do business in Connecticut and that, by law must register with the Insurance Department under the bill, the registered company must pay for the reasonable expenses in administering these provisions. These include retaining attorneys, actuaries, and other professionals and reasonable travel expenses.

The bill makes confidential and protects all information, documents, and material and copies of them that the commissioner or anyone else obtains or is disclosed in the course of an examination or investigation under the bill.

The bill allows the commissioner to adopt implementing regulations.

EFFECTIVE DATE: October 1, 2014

DEFINITIONS

Under the bill, a "group-wide supervisor" is the chief insurance regulatory official authorized by his or her jurisdiction to conduct and coordinate group-wide supervisory activities and whose jurisdiction has been determined or acknowledged by Connecticut's insurance commissioner, under the bill's provisions, to have sufficient significant

contacts with an internationally active insurance group. An "internationally active insurance group" is an insurance holding company system that includes an insurance company doing business in Connecticut.

Under current law and the bill, "enterprise risk" is any activity, circumstance, event, or series of events involving one or more affiliates of an insurer that, if not remedied promptly, would likely have a material adverse effect on the financial condition or liquidity of the insurer or its insurance holding company system. Examples of such risk include any activity, circumstance, event, or series of events that would cause (1) an insurer's risk-based capital to fall below minimum levels required by law or (2) the insurer to be in a hazardous financial condition.

DETERMINING WHETHER THE CONNECTICUT COMMISSIONER TAKES THE LEAD

Under the bill, Connecticut's insurance commissioner may determine, in cooperation with other group-wide supervisors, that he is the appropriate group-wide supervisor for an internationally active insurance group that conducts substantial insurance business operations in this state or has subsidiaries that do so.

Alternatively, the Connecticut commissioner may acknowledge that the chief insurance regulatory official of another jurisdiction is an appropriate supervisor for a group that (1) does not conduct substantial insurance business operations in the United States, (2) conducts substantial insurance business operations in the United States but not in Connecticut, or (3) conducts substantial insurance business operations in the United States and in Connecticut if the commissioner determines that the official of another jurisdiction is the appropriate group-wide supervisor.

In making the latter decision, the commissioner must consider the following factors and the relative weight of each:

1. the location of the group's home office or where the ultimate

- controlling person of the group is domiciled;
2. the locations of the group's executive offices;
 3. where the group's insurance business originates;
 4. the locations of the group's assets and liabilities and business operations and activities; and
 5. whether (a) the chief insurance regulatory official of another jurisdiction is acting or seeking to act as the group-wide supervisor under a regulatory system the Connecticut commissioner determines is substantially equivalent to that provided under Connecticut law or is otherwise sufficient in terms of group-wide supervision, enterprise risk analysis, and cooperation with other chief insurance regulatory officials and (b) that official provides the Insurance Department with reasonably reciprocal recognition and cooperation.

Before issuing a determination or acknowledgment, the commissioner must notify the registered insurance company and the person who ultimately controls it of the pending determination or acknowledgment. The commissioner must provide the group at least 30 calendar days to submit either any additional information pertinent to the determination or an acknowledgment that the commissioner requests or the group chooses to submit. The department must notify the company and controlling person of its determination or acknowledgment and post, on its web site, a current list of groups the commissioner has determined are subject to his group-wide supervision.

COMMISSIONER'S POWERS AND RESPONSIBILITIES

The commissioner may collect, from any insurance company registered as part of an international group, any information necessary for the department to determine whether the commissioner may act as the group-wide supervisor of an internationally active insurance group or to acknowledge that the chief insurance regulatory official of

another jurisdiction should act as the group-wide supervisor of the group.

The commissioner can order such companies to produce records, books or other information they or their affiliates hold that is reasonably necessary to determine compliance with the bill.

The commissioner may conduct and coordinate the following activities for a group he supervises:

1. assess, under existing law, the enterprise risks within the group to ensure that management identifies the material financial condition of, and liquidity risks to, the members of the group that are in the insurance business and ensures that reasonable and effective mitigation measures are in place;
2. request information from any member of the group necessary and appropriate to assess enterprise risk, such as information about governance, risk assessment and management, capital adequacy, and material intercompany transactions;
3. compel development and implementation of reasonable measures designed to ensure the group can timely recognize and mitigate material risks to its members engaged in the business of insurance;
4. through a supervisory college (a group of insurance regulatory officials), communicate with insurance regulatory officials of the group's members and share relevant information with them, subject to the confidentiality provisions described below;
5. enter into agreements with, or obtain documentation from, any Connecticut-registered company, any other group member, and any chief insurance regulatory official of another jurisdiction, to establish or clarify the commissioner's role as group-wide supervisor, which may include provisions for resolving disputes with other relevant supervisory authorities. Such an agreement or document may not serve as evidence that an

insurance company or person within an insurance company holding system that is not incorporated in Connecticut is doing business here or is otherwise subject to the Connecticut's jurisdiction; and

6. other activities the commissioner deems appropriate to implement the purposes of the bill and existing insurance law.

If the commissioner acknowledges that a regulatory official of a jurisdiction not accredited by National Association of Insurance Commissioners is the group-wide supervisor of a group, the commissioner must reasonably cooperate through a supervisory college or otherwise with group supervision that supervisor undertakes. This cooperation must comply with Connecticut law and the group-wide supervisor must recognize and cooperate with the commissioner's activities as a group-wide supervisor for other groups, where applicable. The commissioner may refuse to cooperate if he determines this recognition and cooperation are not reasonably reciprocated. He may enter into agreements with or obtain documentation from any Connecticut-registered company, any of its affiliates, and any regulatory official of another jurisdiction who is the group-wide supervisor of a group, to establish or clarify that official's role as group-wide supervisor.

CONFIDENTIALITY

Under the bill, the following are (1) confidential and privileged, (2) not subject to disclosure under the Freedom of Information Act, (3) not subject to subpoena, and (4) not subject to discovery or admissible in evidence in any civil action:

1. information, documents, and materials or copies of them that the commissioner or any other person obtains or is disclosed to them in the course of conducting an examination or investigation under the bill and
2. all information reported, furnished, or filed under the bill.

The commissioner may use the information to further any regulatory or legal action he brings as part of his official duties. But he can only make such information public, without the affected insurance company's prior written consent, if he:

1. gives the company and its affiliates who would be affected notice and opportunity to be heard and
2. determines that the interests of policyholders, securityholders, or the public will be served by publication.

In such cases, the commissioner may publish all or any part of the information in a way he considers appropriate.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable

Yea 18 Nay 1 (03/20/2014)