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## **OLR Bill Analysis**

### **sHB 5382**

#### ***AN ACT CONCERNING THE INSURANCE HOLDING COMPANY ACT.***

#### **SUMMARY**

Existing law allows the insurance commissioner to supervise and review insurers doing business in Connecticut that are affiliated with an insurance holding company system. By law, an “insurance holding company system” is two or more affiliated people or companies, one of which is an insurance company. In practice, this allows the insurance commissioner to require that a holding company system take actions to reduce “enterprise risk,” which is a risk to an insurer or its affiliates that is likely to impact the insurer’s or holding company’s financial condition or liquidity.

This bill generally adopts the National Association of Insurance Commissioners (NAIC) amendments to the Model Insurance Holding Company System Regulatory Act on group capital calculations and liquidity stress tests for insurers affiliated with an insurance holding company. These calculations and test results give regulators insight on insurance holding company systems’ financial health.

In practice, these amendments are necessary to conform to international agreements on “worldwide supervisors,” which are states and jurisdictions that supervise insurers with affiliates in certain international reciprocal jurisdictions (e.g., insurance groups domiciled in Connecticut with affiliates in the European Union or the United Kingdom). Under these agreements, Connecticut must adopt certain standards together with other states.

The bill also incorporates NAIC amendments that ensure a domestic insurance company in receivership that is associated with an insurance company holding system continues to receive essential services from an

affiliate that it has contracted with. It:

1. requires insurers that are in hazardous financial condition and are part of an insurance holding company to secure money or a bond that covers certain existing obligations and
2. subjects companies affiliated with, and that have certain contractual obligations to, an insurer in receivership to the receiver's authority in certain circumstances.

With respect to insurers that are part of an insurance holding company systems, the bill, in line with NAIC model language, also requires agreements within an insurance company holding system to (1) keep an insurer's data accessible, identifiable, and segregated and (2) maintain as the insurer's exclusive property any of its premiums or funds held by an affiliate.

In line with NAIC amendments, the bill integrates third party consultants into certain provisions of existing law that govern how, and with whom, NAIC can share certain confidential information.

The bill also expands the definition of "internationally active insurance group" for the purposes of insurance holding company regulation. Current law defines an "internationally active insurance group" as an insurance group that, among other things, writes (1) premiums in at least three countries and (2) at least 10% of its gross premiums outside the United States. The bill includes in "gross premiums" for the purpose of this calculation, administrative service fees, associated expenses, and claim payments.

Finally, the bill makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2022

## **GROUP CAPITAL CALCULATIONS**

By law, insurers doing business in Connecticut as part of an insurance holding company system must register with the Connecticut insurance commissioner.

The bill requires the ultimate controlling person of these insurers to file an annual group capital calculation by June 1 annually, and concurrently with their registration. The group capital calculation must be filed with the lead state commissioner, as determined by certain NAIC procedures (e.g., the commissioner of the state in which the holding company is domiciled). (The group capital calculation requirement is a financial tool that assists state insurance regulators identify risks that may come from from a holding company system.)

The report must be completed using the NAIC Group Capital Calculation Instructions and Reporting Template.

### ***Exemptions***

The bill exempts from these group capital calculation filing requirements an insurance company holding system that:

1. (a) has only one insurer in its company structure, (b) only writes business and is only licensed in its domestic state, and (c) assumes no business from any other insurer;
2. is subject to the group capital requirements applicable to an insurance group that owns a, presumably, Federal Reserve Board-supervised depository institution (in which case the bill requires the lead state commissioner to request the applicable capital requirements from the Board; and the insurer loses the exemption if information sharing agreements prevent the Board from disclosing them);
3. has a non-U.S. group-wide supervisor from a reciprocal jurisdiction that recognizes the U.S. regulatory approach; or
4. (a) provides information to the lead state commissioner, through the group-wide supervisor, that meets certain NAIC financial standards and accreditation requirements and that the supervisor deems satisfactory to allow the lead state commissioner to comply with a specified NAIC group supervision approach and (b) whose non-U.S. group-wide supervisor that is not in a reciprocal jurisdiction recognizes and

accepts, as the lead state commissioner specifies in regulation, the group capital calculation as the world-wide group capital assessment for U.S. insurance groups that operate in that jurisdiction.

The bill requires the lead state commissioner to require the group capital calculation for the U.S. operation of any non-U.S. based insurance holding company system if, after consultation with other supervisors or officials, the lead state commissioner determines it is appropriate for prudent oversight, solvency monitoring, or ensuring market competitiveness. The lead state commissioner may require these regardless of the two exemptions for insurance holding company systems with non-U.S. group-wide supervisors listed above (items 3 and 4 above).

The bill also gives the lead state commissioner the discretion to exempt the ultimate controlling person from filing the annual group calculation, or to accept a limited group capital filing report in accordance with criteria the commissioner specifies in regulation.

If the commissioner determines an insurance holding company system no longer meets one of the exemptions above, it must file the group capital calculation at the next annual filing, unless the lead state commissioner gives an extension based on reasonable grounds.

### **LIQUIDITY STRESS TESTS**

Under the bill, the ultimate controlling person of every insurer subject to registration (i.e., insurers affiliated with insurance holding companies) that is also scoped into the NAIC liquidity stress test framework for that year must file the results of the specified year's liquidity stress test with the lead state commissioner. (The liquidity stress test provides state insurance regulators with information on key macro prudential risk.)

The NAIC liquidity stress test framework includes scope criteria applicable to a specific data year. The bill specifies that these scope criteria are reviewed at least annually by the NAIC Financial Stability

Task Force (“task force”), and any changes to the framework or to the data year take effect on January 1 of the following year.

The bill requires insurers meeting at least one threshold of the scope criteria to be scoped into the NAIC liquidity stress test framework, unless the lead state commissioner, in consultation with the task force, determines otherwise. Correspondingly, insurers that do not trigger at least one scope criteria threshold are scoped out, unless the lead state commissioner in consultation with the task force, determines otherwise.

The performance of, and filing of the results from, a specific year’s liquidity stress test must comply with (1) the applicable NAIC liquidity stress test framework instructions and reporting guidelines and (2) any lead state commissioner determinations made in consultation with the task force.

#### **GROUP CAPITAL CALCULATION AND LIQUIDITY STRESS TEST CONFIDENTIALITY**

The bill makes confidential the information reported and provided to the lead state commissioner by an insurance holding company system (including one supervised by the Federal Reserve Board) for group capital calculations and liquidity stress tests. Specifically, the information is:

1. confidential and privileged;
2. not subject to disclosure under the state’s Freedom of Information Act; and
3. not subject to subpoena, discovery, or admissible in any civil action.

The bill specifies these group capital calculations and the resulting group capital ratios, and the liquidity stress tests and its results and supporting disclosures, are only regulatory tools for assessing group risks and capital adequacy and are not intended to rank insurers or insurance holding company systems generally.

#### **INSURANCE COMPANIES IN HAZARDOUS FINANCIAL CONDITION**

The bill adds provisions related to insurance companies that have to register as part of an insurance holding company system that the commissioner determines are in hazardous financial condition or in a condition that would otherwise be grounds for supervision, conservation, or delinquency, under applicable existing law or regulations.

Under the bill, the commissioner may require these companies to secure and maintain, a (1) deposit, to be held by the commissioner, or (2) bond, as the company determines. The deposit or bond must protect the insurance company for the duration of the contracts, agreements, or conditions that are causing the hazardous financial condition.

In determining whether the bond or deposit is required, the commissioner must consider whether the company's affiliates are able to fulfill its contracts or agreements if the company were liquidated. The commissioner sets the bond or deposit amount, which cannot exceed the value of the contracts or agreements in any one year. He may also specify which contracts or agreements the bond or deposit must cover.

#### **DATA, RECORD, AND PREMIUM OWNERSHIP AND CONTROL**

The bill specifies that all of an insurance company's records and data held by an affiliate remain property of the insurance company and are subject to the company's control. The records must be identifiable and segregated (or readily capable of segregation) from all other persons' records and all of the affiliate's data. Under the bill, an insurer should not pay to segregate commingled records and data.

At the insurer's request, the affiliate must allow the receiver to have:

1. a complete set of any records about the insurer's business,
2. access to the operating systems where the data is maintained, and
3. software that runs the systems (either by assuming the licensing agreements or otherwise).

The bill also restricts the affiliate's use of this data if it is not operating

the insurer's business.

Under the bill, the affiliate must provide a waiver of any landlord lien or other encumbrance to give the insurer access to all records and data in the event the affiliate defaults on a lease or other agreement.

Additionally, premiums or other funds that belong to the insurer that are collected or held by an affiliate are the insurer's exclusive property, and subject to its control. The bill specifies that any rights to offsets of amounts due to or from an insurer or affiliate are governed by existing insurer receivership laws if the insurer goes into receivership.

### **REHABILITATOR OR LIQUIDATOR'S AUTHORITY OVER AN AFFILIATE**

By law, an insurer that intends to contract with an affiliate for certain purposes must notify the commissioner first. Under the bill, an affiliate that is party to a management agreement, service contract, tax allocation agreement, or cost-sharing arrangement for which the insurer must give prior notice to the commissioner is also subject to the:

1. jurisdiction of any rehabilitation or liquidation order against the insurer and
2. authority of any rehabilitator or liquidator appointed under existing law to interpret, enforce, and oversee the affiliate's contractual obligations.

The commissioner can require an agreement or contract to specify that the affiliate consents to this authority. These provisions apply to contracts or agreements under which the affiliate performs services for the insurer that:

1. are an integral part of the insurer's operations, including management, administration, accounting, data processing, marketing, underwriting, claims handling, investment, or similar functions, or
2. are essential to the insurer's ability to fulfil its obligations under insurance policies.

## **SHARING INFORMATION WITH THIRD PARTY CONSULTANTS**

Existing law allows the Connecticut insurance commissioner to acquire from and share with certain parties confidential information related to regulatory reports and insurer oversight, under certain conditions. Among others, current law allows him to acquire and share this information with NAIC and its affiliates or subsidiaries. The bill instead allows this sharing with NAIC and any third-party consultants the commissioner designates.

Existing law requires the Connecticut insurance commissioner, prior to acquiring or sharing information, to enter into agreements that specify procedures for maintaining the information's confidentiality. The bill also requires these written agreements to:

1. require the recipient to agree in writing to maintain the confidentiality and privileged status of the documents, materials, or other information and has verified in writing their legal authority to do so (existing law already requires this to be affirmed in writing before the commissioner shares information);
2. prohibit NAIC or third-party consultants the commissioner designates from storing information on a permanent database after the underlying analysis is completed, excluding certain documents related to the liquidity stress tests; and
3. for certain documents related to the liquidity stress tests and only in the case of an agreement with a third-party consultant, provide for notice of the consultant's identity to the applicable insurer.

## **COMMITTEE ACTION**

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 16 Nay 0 (03/17/2022)