

Chapter 104

(Senate Bill 31)

AN ACT concerning

Insurance – Insurance Holding Company Model Act

FOR the purpose of authorizing the Maryland Insurance Commissioner to act as ~~a~~ the group-wide supervisor for an internationally active insurance group; authorizing the Commissioner to acknowledge another regulatory official as ~~a~~ the group-wide supervisor for a certain internationally active insurance group; authorizing a certain insurance holding company system to request that the Commissioner make a certain determination or acknowledgment of a group-wide ~~supervision~~ supervisor for the system; requiring the Commissioner to identify a single group-wide ~~supervision~~ supervisor for an internationally active insurance group in cooperation with certain regulatory agencies; authorizing the Commissioner to make a certain determination or acknowledgment; requiring the Commissioner to consider certain factors when making a certain determination or acknowledgment; requiring the Commissioner to make a certain decision in cooperation with and subject to the acknowledgment of certain other regulatory officials and in consultation with an internationally active insurance group; requiring that the Commissioner acknowledge a certain regulatory official as the group-wide supervisor of an internationally active insurance group under certain circumstances; requiring the Commissioner to make a certain determination or acknowledgment as to the appropriate single group-wide supervisor for an internationally active insurance group under certain circumstances; authorizing the Commissioner to collect certain information from certain insurers for certain purposes; requiring the Commissioner to provide certain notifications; requiring that an internationally active insurance group have at least a certain number of days to provide the Commissioner with certain information; requiring the Commissioner to publish certain information in the Maryland Register and on the Maryland Insurance Administration's website; authorizing the Commissioner to take certain actions with respect to an internationally active insurance group for which the Commissioner is the appropriate single group-wide supervisor; prohibiting certain agreements and documentation from serving as certain evidence; requiring that certain agreements include provisions for resolving certain disputes; authorizing the Commissioner to reasonably cooperate with certain other group-wide supervisors under certain circumstances; authorizing the Commissioner to refuse recognition of and cooperation with certain regulatory officials; authorizing the Commissioner to enter into certain agreements and obtain certain documentation from certain persons; requiring certain insurers to be liable for, and to pay, certain expenses; authorizing the Commissioner to adopt certain regulations; defining certain terms; and generally relating to the supervision of insurance holding companies.

BY adding to
Article – Insurance

Section 2-209.2
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

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

Article – Insurance

2-209.2.

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

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

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

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

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

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

(II) HAS:

1. 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 3-YEAR ROLLING AVERAGE, TOTAL ASSETS OF AT LEAST \$50,000,000,000 OR TOTAL GROSS WRITTEN PREMIUMS OF AT LEAST \$10,000,000,000.

(4) “NAIC” MEANS THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS.

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

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

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

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

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

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

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

(II) THE COMMISSIONER MAY:

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

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

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

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

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

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

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

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

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

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

(3) IN MAKING A DECISION TO ACKNOWLEDGE ANOTHER REGULATORY OFFICIAL AS THE APPROPRIATE SINGLE GROUP-WIDE SUPERVISOR OF AN INTERNATIONALLY ACTIVE INSURANCE GROUP UNDER PARAGRAPH (1)(II)2 OF THIS SUBSECTION, THE COMMISSIONER SHALL MAKE THE DECISION:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. REASONABLE AND EFFECTIVE MITIGATION MEASURES ARE IN PLACE;

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

1. GOVERNANCE;

2. RISK ASSESSMENT;

3. MANAGEMENT;

4. CAPITAL ADEQUACY; AND

5. MATERIAL INTERCOMPANY TRANSACTIONS;

(III) COORDINATE AND, THROUGH THE AUTHORITY OF THE REGULATORY OFFICIALS OF THE JURISDICTIONS WHERE INSURERS, AS MEMBERS OF THE INTERNATIONALLY ACTIVE INSURANCE GROUP, ARE DOMICILED, 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, AS MEMBERS OF THE INTERNATIONALLY ACTIVE INSURANCE GROUP, IN A TIMELY MANNER;

(IV) COMMUNICATE WITH OTHER STATE, FEDERAL, AND INTERNATIONAL REGULATORY AGENCIES FOR INSURERS, AS MEMBERS OF THE INTERNATIONALLY ACTIVE INSURANCE GROUP, AND SHARE RELEVANT INFORMATION, SUBJECT TO THE CONFIDENTIALITY PROVISIONS OF ~~§ 7-605~~ § 7-106 OF THIS ARTICLE, THROUGH SUPERVISORY COLLEGES UNDER § 2-209.1 OF THIS SUBTITLE;

(V) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION AND TO PROVIDE THE BASIS FOR, OR CLARIFICATION OF, THE COMMISSIONER'S ROLE AS GROUP-WIDE SUPERVISOR, ENTER INTO AGREEMENTS WITH OR OBTAIN DOCUMENTATION FROM AN INSURER REGISTERED UNDER TITLE 7, SUBTITLE 6 OF THIS ARTICLE, ANY MEMBER OF THE INTERNATIONALLY ACTIVE INSURANCE GROUP, OR ANY OTHER STATE, FEDERAL, OR INTERNATIONAL REGULATORY AGENCIES FOR MEMBERS OF THE INTERNATIONALLY ACTIVE INSURANCE GROUP;

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

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

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

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

(H) IF THE COMMISSIONER ACKNOWLEDGES THAT ANOTHER REGULATORY OFFICIAL FROM A JURISDICTION THAT IS NOT ACCREDITED BY THE NAIC IS THE GROUP-WIDE SUPERVISOR, THE COMMISSIONER MAY REASONABLY COOPERATE,

THROUGH SUPERVISORY COLLEGES OR OTHERWISE, WITH GROUP-WIDE SUPERVISION UNDERTAKEN BY THE GROUP-WIDE SUPERVISOR, IF:

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

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

(3) THE RECOGNITION AND COOPERATION IS REASONABLY RECIPROCAL.

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

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

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

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

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

(K) A REGISTERED INSURER SUBJECT TO THIS SECTION SHALL BE LIABLE FOR, AND SHALL PAY, THE REASONABLE EXPENSES OF THE COMMISSIONER'S PARTICIPATION IN THE ADMINISTRATION OF THIS SECTION, INCLUDING THE ENGAGEMENT OF ATTORNEYS, ACTUARIES, AND ANY OTHER PROFESSIONALS AND REASONABLE TRAVEL EXPENSES.

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

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

Approved by the Governor, April 18, 2019.