

# SENATE BILL 31

C3, C4

9lr0070

(PRE-FILED)

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By: **Chair, Finance Committee (By Request – Departmental – Maryland Insurance Administration)**

Requested: October 15, 2018

Introduced and read first time: January 9, 2019

Assigned to: Finance

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 4, 2019

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Insurance – Insurance Holding Company Model Act**

3 FOR the purpose of authorizing the Maryland Insurance Commissioner to act as ~~a~~ the  
4 group-wide supervisor for an internationally active insurance group; authorizing the  
5 Commissioner to acknowledge another regulatory official as ~~a~~ the group-wide  
6 supervisor for a certain internationally active insurance group; authorizing a certain  
7 insurance holding company system to request that the Commissioner make a certain  
8 determination or acknowledgment of a group-wide ~~supervision~~ supervisor for the  
9 system; requiring the Commissioner to identify a single group-wide ~~supervision~~  
10 supervisor for an internationally active insurance group in cooperation with certain  
11 regulatory agencies; authorizing the Commissioner to make a certain determination  
12 or acknowledgment; requiring the Commissioner to consider certain factors when  
13 making a certain determination or acknowledgment; requiring the Commissioner to  
14 make a certain decision in cooperation with and subject to the acknowledgment of  
15 certain other regulatory officials and in consultation with an internationally active  
16 insurance group; requiring that the Commissioner acknowledge a certain regulatory  
17 official as the group-wide supervisor of an internationally active insurance group  
18 under certain circumstances; requiring the Commissioner to make a certain  
19 determination or acknowledgment as to the appropriate single group-wide  
20 supervisor for an internationally active insurance group under certain  
21 circumstances; authorizing the Commissioner to collect certain information from  
22 certain insurers for certain purposes; requiring the Commissioner to provide certain  
23 notifications; requiring that an internationally active insurance group have at least

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 a certain number of days to provide the Commissioner with certain information;  
 2 requiring the Commissioner to publish certain information in the Maryland Register  
 3 and on the Maryland Insurance Administration's website; authorizing the  
 4 Commissioner to take certain actions with respect to an internationally active  
 5 insurance group for which the Commissioner is the appropriate single group-wide  
 6 supervisor; prohibiting certain agreements and documentation from serving as  
 7 certain evidence; requiring that certain agreements include provisions for resolving  
 8 certain disputes; authorizing the Commissioner to reasonably cooperate with certain  
 9 other group-wide supervisors under certain circumstances; authorizing the  
 10 Commissioner to refuse recognition of and cooperation with certain regulatory  
 11 officials; authorizing the Commissioner to enter into certain agreements and obtain  
 12 certain documentation from certain persons; requiring certain insurers to be liable  
 13 for, and to pay, certain expenses; authorizing the Commissioner to adopt certain  
 14 regulations; defining certain terms; and generally relating to the supervision of  
 15 insurance holding companies.

16 BY adding to

17 Article – Insurance

18 Section 2–209.2

19 Annotated Code of Maryland

20 (2017 Replacement Volume and 2018 Supplement)

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

23 **Article – Insurance**

24 **2–209.2.**

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

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

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

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

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

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

3 (II) HAS:

4 1. PREMIUMS WRITTEN IN AT LEAST THREE COUNTRIES;

5 2. AT LEAST 10% OF ITS TOTAL GROSS WRITTEN  
6 PREMIUMS FROM PREMIUMS WRITTEN OUTSIDE THE UNITED STATES; AND

7 3. BASED ON A 3-YEAR ROLLING AVERAGE, TOTAL  
8 ASSETS OF AT LEAST \$50,000,000,000 OR TOTAL GROSS WRITTEN PREMIUMS OF AT  
9 LEAST \$10,000,000,000.

10 (4) "NAIC" MEANS THE NATIONAL ASSOCIATION OF INSURANCE  
11 COMMISSIONERS.

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

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

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

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

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

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

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

5                           (II) THE COMMISSIONER MAY:

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

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

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

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

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

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

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

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

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

32                          (V) WHETHER ANOTHER REGULATORY OFFICIAL ACTING OR  
33 SEEKING TO ACT AS ~~A~~ THE GROUP-WIDE SUPERVISOR PROVIDES THE

1 COMMISSIONER WITH REASONABLY RECIPROCAL RECOGNITION AND  
2 COOPERATION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 2. REASONABLE AND EFFECTIVE MITIGATION  
27 MEASURES ARE IN PLACE;

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

33 1. GOVERNANCE;

- 1                                   2.     RISK ASSESSMENT;
- 2                                   3.     MANAGEMENT;
- 3                                   4.     CAPITAL ADEQUACY; AND
- 4                                   5.     MATERIAL INTERCOMPANY TRANSACTIONS;

5                                   (III) COORDINATE AND, THROUGH THE AUTHORITY OF THE  
6 REGULATORY OFFICIALS OF THE JURISDICTIONS WHERE INSURERS, AS MEMBERS  
7 OF THE INTERNATIONALLY ACTIVE INSURANCE GROUP, ARE DOMICILED, COMPEL  
8 DEVELOPMENT AND IMPLEMENTATION OF REASONABLE MEASURES DESIGNED TO  
9 ENSURE THAT THE INTERNATIONALLY ACTIVE INSURANCE GROUP IS ABLE TO  
10 RECOGNIZE AND MITIGATE ENTERPRISE RISKS TO INSURERS, AS MEMBERS OF THE  
11 INTERNATIONALLY ACTIVE INSURANCE GROUP, IN A TIMELY MANNER;

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

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

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

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

33                                  (2) (I) ANY AGREEMENTS ENTERED INTO ~~UNDER PARAGRAPH~~  
34 ~~(1)(V) OF THIS SUBSECTION~~ OR DOCUMENTATION OBTAINED UNDER PARAGRAPH  
35 ~~(1)(VI)~~ (1)(V) OF THIS SUBSECTION MAY NOT SERVE AS EVIDENCE IN ANY

1 PROCEEDING THAT ANY INSURER OR PERSON OF AN INSURANCE HOLDING COMPANY  
2 SYSTEM NOT DOMICILED OR INCORPORATED IN THE STATE IS DOING BUSINESS IN  
3 THE STATE OR IS OTHERWISE SUBJECT TO JURISDICTION IN THE STATE.

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

7 (H) IF THE COMMISSIONER ACKNOWLEDGES THAT ANOTHER REGULATORY  
8 OFFICIAL FROM A JURISDICTION THAT IS NOT ACCREDITED BY THE NAIC IS THE  
9 GROUP-WIDE SUPERVISOR, THE COMMISSIONER MAY REASONABLY COOPERATE,  
10 THROUGH SUPERVISORY COLLEGES OR OTHERWISE, WITH GROUP-WIDE  
11 SUPERVISION UNDERTAKEN BY THE GROUP-WIDE SUPERVISOR, IF:

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

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

18 (3) THE RECOGNITION AND COOPERATION IS REASONABLY  
19 RECIPROCAL.

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

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

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

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

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

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

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

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

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.