

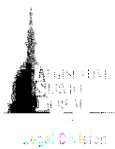
HOUSE BILL NO. 5242

November 13, 2019, Introduced by Reps. Wittenberg, Rendon and Paquette and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending section 1301 (MCL 500.1301), as amended by 2015 PA 244, and by adding section 1359.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 1301. As used in this chapter:
- 2 (a) "Enterprise risk" means an activity, circumstance, event,
- 3 or series of events involving 1 or more affiliates of an insurer
- 4 that, if not remedied promptly, is likely to have a material



1 adverse effect on the financial condition or liquidity of the
2 insurer or its insurance holding company system as a whole,
3 including, but not limited to, anything that would cause the
4 insurer to be hazardous to policyholders, creditors, and the
5 public.

6 (b) "Group-wide supervisor" means the regulatory official
7 authorized to engage in conducting and coordinating group-wide
8 supervision activities who is determined or acknowledged by the
9 director under section 1359 to have sufficient contacts with the
10 internationally active insurance group.

11 (c) ~~(b)~~—"Insurer" means that term as defined in section 106
12 and includes a nonprofit dental care corporation operating under
13 1963 PA 125, MCL 550.351 to 550.373. Insurer does not include
14 agencies, authorities, or instrumentalities of the United States,
15 its possessions and territories, the commonwealth of Puerto Rico,
16 the District of Columbia or a state or political subdivision of a
17 state, fraternal benefit societies, or nonprofit health care
18 corporations.

19 (d) "Internationally active insurance group" means an
20 insurance holding company system to which both of the following
21 apply:

22 (i) The insurance holding company system includes an insurer
23 registered under section 1324.

24 (ii) The insurance holding company system meets all of the
25 following criteria:

26 (A) The insurance holding company system has premiums written
27 in at least 3 countries.

28 (B) The percentage of gross premiums written outside the
29 United States is at least 10% of the insurance holding company



1 system's total gross written premiums.

2 (C) Based on a 3-year rolling average, the total assets of the
3 insurance holding company system are at least \$50,000,000,000.00 or
4 the total gross written premiums of the insurance holding company
5 system are at least \$10,000,000,000.00.

6 (e) ~~(e)~~ "NAIC" means the National Association of Insurance
7 Commissioners.

8 (f) ~~(d)~~ "Person" means that term as defined in section 114,
9 except that it does not include a securities broker performing no
10 more than the usual and customary broker's function, so long as the
11 securities broker holds less than 10% of the voting securities of
12 an insurer or of any person that controls an insurer.

13 **Sec. 1359. (1) The director may act as the group-wide**
14 **supervisor for any internationally active insurance group in**
15 **accordance with this section. However, the director may otherwise**
16 **acknowledge another regulatory official as the group-wide**
17 **supervisor if any of the following apply to the internationally**
18 **active insurance group:**

19 (a) The internationally active insurance group does not have
20 substantial insurance operations in the United States.

21 (b) The internationally active insurance group has substantial
22 insurance operations in the United States, but not in this state.

23 (c) The internationally active insurance group has
24 substantial insurance operations in the United States and this
25 state, but the director has determined under the factors set forth
26 in subsections (2), (3), and (7) that the other regulatory official
27 is the appropriate group-wide supervisor.

28 (2) Subject to subsection (3), in cooperation with other
29 state, federal, and international regulatory agencies, the director



1 shall identify a single group-wide supervisor for an
2 internationally active insurance group. The director may determine
3 that the director is the appropriate group-wide supervisor for an
4 internationally active insurance group that conducts substantial
5 insurance operations concentrated in this state. However, the
6 director may acknowledge that a regulatory official from another
7 jurisdiction is the appropriate group-wide supervisor for the
8 internationally active insurance group. The director shall consider
9 all of the following factors when making a determination or
10 acknowledgement under this subsection:

11 (a) The place of domicile of the insurers within the
12 internationally active insurance group that holds the largest share
13 of the group's written premiums, assets, or liabilities.

14 (b) The place of domicile of the top-tiered insurer or
15 insurers in the insurance holding company system of the
16 internationally active insurance group.

17 (c) The location of the executive offices or largest
18 operational offices of the internationally active insurance group.

19 (d) Whether another regulatory official is acting or is
20 seeking to act as the group-wide supervisor under a regulatory
21 system that the director determines to be either of the following:

22 (i) Substantially similar to the system of regulation provided
23 under the laws of this state.

24 (ii) Otherwise, sufficient in terms of providing for group-wide
25 supervision, enterprise risk analysis, and cooperation with other
26 regulatory officials.

27 (e) Whether another regulatory official acting or seeking to
28 act as the group-wide supervisor provides the director with
29 reasonably reciprocal recognition and cooperation.



1 (3) A commissioner identified under this section as the group-
2 wide supervisor may determine that it is appropriate to acknowledge
3 another supervisor to serve as the group-wide supervisor. The
4 acknowledgement of the group-wide supervisor must be made in
5 cooperation of the factors under subsection (2), and must be made
6 in cooperation with and subject to the acknowledgement of other
7 regulatory officials involved with supervision of members of the
8 internationally active insurance group, and in consultation with
9 the internationally active insurance group.

10 (4) Notwithstanding any other provision of law, if another
11 regulatory official is acting as the group-wide supervisor of an
12 internationally active insurance group, the director shall
13 acknowledge that regulatory official as the group-wide supervisor.
14 However, the director shall make a determination or acknowledgement
15 as to the appropriate group-wide supervisor for the internationally
16 active insurance group under subsection (2) in the event of a
17 material change in the internationally active insurance group that
18 results in either of the following:

19 (a) The internationally active insurance group's insurers
20 domiciled in this state holding the largest share of the group's
21 premiums, assets, or liabilities.

22 (b) This state being the place of domicile of the top-tiered
23 insurer or insurers in the insurance holding company system of the
24 internationally active insurance group.

25 (5) Pursuant to section 1351, the director may collect from an
26 insurer registered under section 1324 all information necessary to
27 determine whether the director may act as the group-wide supervisor
28 of an internationally active insurance group or if the director may
29 acknowledge another regulatory official to act as the group-wide



1 supervisor. Before issuing a determination that an internationally
2 active insurance group is subject to group-wide supervision by the
3 director, the director shall notify the insurer registered under
4 section 1324 and the ultimate controlling person within the
5 internationally active insurance group. The internationally active
6 insurance group has at least 30 days to provide the director with
7 additional information pertinent to the pending determination. The
8 director shall publish on its website the identity of
9 internationally active insurance groups that the director has
10 determined are subject to group-wide supervision by the director.

11 (6) If the director is the group-wide supervisor for the
12 internationally active insurance group, the director may engage in
13 any of the following group-wide supervision activities:

14 (a) Assess the enterprise risks within the internationally
15 active insurance group to ensure both of the following:

16 (i) That the material financial condition and liquidity risk to
17 the members of the internationally active insurance group that are
18 engaged in the business of insurance are identified by management.

19 (ii) That reasonable and effective mitigation measures are in
20 place.

21 (b) Request, from any member of the internationally active
22 insurance group subject to the director's supervision, information
23 necessary and appropriate to assess enterprise risk, including, but
24 not limited to, information about the members of the
25 internationally active insurance group regarding any of the
26 following:

27 (i) Governance, risk assessment, and management.

28 (ii) Capital adequacy.

29 (iii) Material intercompany transactions.



1 (c) Coordinate and, through the authority of the regulatory
2 officials of the jurisdiction where members of the internationally
3 active insurance group are domiciled, compel development and
4 implementation of reasonable measures designed to ensure that the
5 internationally active insurance group is able to timely recognize
6 and mitigate enterprise risks to members of the internationally
7 active insurance group that are engaged in the business of
8 insurance.

9 (d) Communicate with other state, federal, and international
10 regulatory agencies for members within the internationally active
11 insurance group and share relevant information, subject to the
12 confidentiality provisions of section 1355, through supervisory
13 colleges as provided in section 1357 or otherwise.

14 (e) Enter into agreements with or obtain documentation from
15 any insurer registered under section 1324, any member of the
16 internationally active insurance group, and any other state,
17 federal, and international regulatory agencies for members of the
18 internationally active insurance group, providing the basis for or
19 otherwise clarifying the director's role as group-wide supervisor,
20 including provisions for resolving disputes with the other
21 regulatory officials. The agreements or documentation described in
22 this subdivision must not serve as evidence in any proceeding that
23 any insurer or person within an insurance holding company system
24 not domiciled or incorporated in this state is doing business in
25 this state or is otherwise subject to jurisdiction in this state.

26 (f) Other group-wide supervision activities, consistent with
27 the authorities and purposes provided in this subsection, as
28 considered necessary by the director.

29 (7) If the director acknowledges that another regulatory



1 official from a jurisdiction that is not accredited by the NAIC is
2 the group-wide supervisor, the director may reasonably cooperate,
3 through supervisory colleges or otherwise, with group-wide
4 supervision undertaken by the group-wide supervisor if both of the
5 following apply:

6 (a) The director's cooperation is in compliance with the laws
7 of this state.

8 (b) The regulatory official acknowledged as the group-wide
9 supervisor also recognizes and cooperates with the director's
10 activities as a group-wide supervisor for other internationally
11 active insurance group where applicable. If recognition and
12 cooperation described in this subdivision is not reasonably
13 reciprocal, the director may refuse recognition and cooperation.

14 (8) The director may enter into agreements with or obtain
15 documentation from any insurer registered under section 1324, any
16 affiliate of the insurer, and other state, federal, and
17 international regulatory agencies for members of the
18 internationally active insurance group, that provide the basis for
19 or otherwise clarify a regulatory official's role as group-wide
20 supervisor.

21 (9) A registered insurer subject to this section is liable for
22 and shall pay the reasonable expenses of the director's
23 participation in the administration of this section, including the
24 engagement of attorneys, actuaries, and any other professionals and
25 all reasonable travel expenses.

