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:

Sec. 1301. As used in this chapter:
(a) "Enterprise risk" means an activity, circumstance, event, or series of events involving 1 or more affiliates of an insurer that, if not remedied promptly, is likely to have a material
adverse effect on the financial condition or liquidity of the insurer or its insurance holding company system as a whole, including, but not limited to, anything that would cause the insurer to be hazardous to policyholders, creditors, and the public.

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

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

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

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

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

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

(B) The percentage of gross premiums written outside the United States is at least 10% of the insurance holding company
system's total gross written premiums.

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

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

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

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

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

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

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

(2) Subject to subsection (3), in cooperation with other state, federal, and international regulatory agencies, the director
shall identify a single group-wide supervisor for an internationally active insurance group. The director may determine that the director is the appropriate group-wide supervisor for an internationally active insurance group that conducts substantial insurance operations concentrated in this state. However, the director may acknowledge that a regulatory official from another jurisdiction is the appropriate group-wide supervisor for the internationally active insurance group. The director shall consider all of the following factors when making a determination or acknowledgement under this subsection:

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

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

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

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

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

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

(e) Whether another regulatory official acting or seeking to act as the group-wide supervisor provides the director with reasonably reciprocal recognition and cooperation.
(3) A commissioner identified under this section as the group-wide supervisor may determine that it is appropriate to acknowledge another supervisor to serve as the group-wide supervisor. The acknowledgement of the group-wide supervisor must be made in cooperation of the factors under subsection (2), and must be made in cooperation with and subject to the acknowledgement of other regulatory officials involved with supervision of members of the internationally active insurance group, and in consultation with the internationally active insurance group.

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

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

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

(5) Pursuant to section 1351, the director may collect from an insurer registered under section 1324 all information necessary to determine whether the director may act as the group-wide supervisor of an internationally active insurance group or if the director may acknowledge another regulatory official to act as the group-wide
supervisor. Before issuing a determination that an internationally active insurance group is subject to group-wide supervision by the director, the director shall notify the insurer registered under section 1324 and the ultimate controlling person within the internationally active insurance group. The internationally active insurance group has at least 30 days to provide the director with additional information pertinent to the pending determination. The director shall publish on its website the identity of internationally active insurance groups that the director has determined are subject to group-wide supervision by the director.

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

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

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

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

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

(i) Governance, risk assessment, and management.

(ii) Capital adequacy.

(iii) Material intercompany transactions.
(c) Coordinate and, through the authority of the regulatory officials of the jurisdiction where 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 timely recognize and mitigate enterprise risks to members of the internationally active insurance group that are engaged in the business of insurance.

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

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

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

(7) If the director acknowledges that another regulatory
official from a jurisdiction that is not accredited by the NAIC is
the group-wide supervisor, the director may reasonably cooperate,
through supervisory colleges or otherwise, with group-wide
supervision undertaken by the group-wide supervisor if both of the
following apply:

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

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

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

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