

2022 Regular Session

HOUSE BILL NO. 715

BY REPRESENTATIVE GREEN

INSURANCE: Makes various revisions in the Insurance Holding Company System Regulatory Law

1 AN ACT

2 To amend and reenact R.S. 22:691.2(introductory paragraph), 691.6(D), (M), and (N), and  
3 691.10(A), (C)(1), (3), (4), and (F) and to enact R.S. 22:691.2(13) through (15),  
4 691.6(O) and (P), 691.7(A)(1)(g) through (i) and (6), and 691.10(G), relative to the  
5 Insurance Holding Company System Regulatory Law; to provide for definitions; to  
6 provide for a group capital calculation; to provide for a liquidity stress test; to  
7 provide for the continuity of essential services and functions provided by affiliates;  
8 to provide for jurisdiction of the rehabilitation court; to provide for a bond or deposit  
9 requirement; to provide for the ownership of the records of an insurer; to provide for  
10 confidentiality; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 22:691.2(introductory paragraph), 691.6(D), (M), and (N), and  
13 691.10(A), (C)(1), (3), (4), and (F) are hereby amended and reenacted and R.S. 22:691.2(13)  
14 through (15), 691.6(O) and (P), 691.7(A)(1)(g) through (i) and (6), and 691.10(G) are hereby  
15 enacted to read as follows:

16 §691.2. Definitions

17 As used in this Subpart, the following terms ~~shall have these meanings unless~~  
18 ~~the context shall otherwise require:~~ the meaning ascribed in this Section unless the  
19 context clearly requires otherwise:

20 \* \* \*



1           M.(1) Group capital calculation. Except as provided in Paragraph (2) of this  
2           Subsection, the ultimate controlling person of every insurer subject to registration  
3           shall concurrently file, with the registration, an annual group capital calculation as  
4           directed by the lead state commissioner. The report shall be completed in  
5           accordance with the NAIC group capital calculation instructions, which may permit  
6           the lead state commissioner to allow a controlling person that is not the ultimate  
7           controlling person to file the group capital calculation. The report shall be filed with  
8           the lead state commissioner of the insurance holding company system as determined  
9           by the commissioner in accordance with the procedures within the Financial  
10           Analysis Handbook adopted by the NAIC.

11           (2) The following insurance holding company systems are exempt from  
12           filing the group capital calculation:

13           (a) An insurance holding company system that has only one insurer within  
14           its holding company structure, that only writes business and is only authorized in its  
15           domestic state, and assumes no business from any other insurer.

16           (b) An insurance holding company system that is required to perform a  
17           group capital calculation specified by the federal reserve. The lead state  
18           commissioner shall request the calculation from the federal reserve under the terms  
19           of information sharing agreements in effect. If the federal reserve cannot share the  
20           calculation with the lead state commissioner, the insurance holding company system  
21           is not exempt from the group capital calculation filing.

22           (c) An insurance holding company system with a supervisor whose group-  
23           wide supervisor is not based in the United States and is located within a reciprocal  
24           jurisdiction as described in R.S. 22:651(F) that recognizes the U.S. state regulatory  
25           approach to group supervision and group capital.

26           (d) An insurance holding company system that meets all of the following  
27           criteria:

28           (i) It provides information to the lead state that meets the requirements for  
29           accreditation under the NAIC financial standards and accreditation program, either

1 directly or indirectly through the group-wide supervisor, who has determined such  
2 information is satisfactory to allow the lead state to comply with the NAIC group  
3 supervision approach, as detailed in the NAIC Financial Analysis Handbook.

4 (ii) The group-wide supervisor not based in the United States, that is not in  
5 a reciprocal jurisdiction, recognizes and accepts, as specified by the commissioner  
6 in regulation, the group capital calculation as the world-wide group capital  
7 assessment for United States insurance groups who operate in that jurisdiction.

8 (3) Notwithstanding the provisions of Subparagraphs (2)(c) and (d) of this  
9 Subsection, a lead state commissioner shall require the group capital calculation for  
10 United States operations of any insurance holding company system not based in the  
11 United States if, after any necessary consultation with other supervisors or officials,  
12 it is deemed appropriate by the lead state commissioner for prudential oversight and  
13 solvency monitoring purposes or for ensuring the competitiveness of the insurance  
14 marketplace.

15 (4) Notwithstanding the exemptions from filing the group capital calculation  
16 in Subparagraphs (2)(c) and (d) of this Subsection, the lead state commissioner has  
17 the discretion to exempt the ultimate controlling person from filing the annual group  
18 capital calculation or to accept a limited group capital filing or report in accordance  
19 with the criteria as specified by the commissioner through rules and regulations.

20 (5) If the commissioner determines that an insurance holding company  
21 system no longer meets one or more of the requirements for an exemption from  
22 filing the group capital calculation pursuant to this Section, the insurance holding  
23 company system shall file the group capital calculation at the next annual filing date,  
24 unless given an extension by the commissioner based on reasonable grounds shown.

25 N.(1) Liquidity stress test. The ultimate controlling person of every insurer  
26 subject to registration and scoped into the NAIC liquidity stress test framework shall  
27 file the results of its liquidity stress test. The filing shall be made to the lead state  
28 insurance commissioner of the insurance holding company system as determined by  
29 the procedures within the Financial Analysis Handbook adopted by the NAIC.

1           (2) The NAIC liquidity stress test framework includes scope criteria  
2           applicable to a specific data year. These scope criteria are reviewed at least annually  
3           by the financial stability task force or its successor. Any change to the NAIC  
4           liquidity stress test framework or to the data year for which the scope criteria are to  
5           be measured shall be effective on the first of January of the year following the  
6           calendar year such changes are adopted. Insurers meeting at least one threshold of  
7           the scope criteria are considered scoped into the NAIC liquidity stress test  
8           framework for the specified data year, unless the lead state insurance commissioner,  
9           in consultation with the NAIC Financial Stability Task Force or its successor,  
10          determines the insurer should not be scoped into the framework for that data year.  
11          Similarly, insurers that do not meet at least one threshold of the scope criteria are  
12          considered scoped out of the NAIC liquidity stress test framework for the specified  
13          data year, unless the lead state insurance commissioner, in consultation with the  
14          NAIC Financial Stability Task Force or its successor, determines the insurer should  
15          be scoped into the framework for that data year.

16           (3) The lead state commissioner, in consultation with the NAIC Financial  
17          Stability Task Force or its successor, shall address concerns regarding regulators  
18          wishing to avoid being scoped in and out of the NAIC liquidity stress test framework  
19          on a frequent basis.

20           (4) The performance of, and filing of the results from, a specific year's  
21          liquidity stress test shall comply with the NAIC liquidity stress test framework  
22          instructions and reporting templates for that year and any lead state insurance  
23          commissioner determinations, in conjunction with the NAIC Financial Stability Task  
24          Force or its successor, provided within the framework.

25           O. Violations. The failure to file a registration statement or any summary  
26 of the registration statement or enterprise risk filing required by this Section within  
27 the time specified for filing shall be a violation of this Section.

28           ~~N. P.(1)~~ Incorporation by reference. Any information contained in any  
29 financial statement, annual report, proxy statement, statement filed with a

1 governmental authority, or any other document may be incorporated by reference,  
 2 provided the document is filed as an exhibit to the registration statement. Any  
 3 excerpt of a document may be filed as an exhibit if the document is extensive. Any  
 4 documents currently on file with the commissioner which were filed within three  
 5 years need not be attached as exhibits, but shall be referred to if not so attached. All  
 6 references to information contained in exhibits or in documents duly filed shall  
 7 clearly identify the material and specifically indicate that the material is to be  
 8 incorporated by reference to the item. No materials shall be incorporated by  
 9 reference in any instance that the incorporation would render the statement  
 10 incomplete, unclear, or confusing.

11 (2) If a filing requires a summary or outline of the provisions of any  
 12 document, only a brief statement shall be made as to the pertinent provisions of the  
 13 document. In addition to the brief statement, the summary or outline may  
 14 incorporate, by reference, particular parts of any exhibit or document currently on  
 15 file with the commissioner which was filed within three years and may be included  
 16 in its entirety by the reference. ~~In any case where~~ If two or more documents required  
 17 to be filed as exhibits are substantially identical in all material respects except as to  
 18 the parties, the dates of execution, or other details, a copy of one of the documents  
 19 shall be filed with a schedule identifying the omitted documents and setting forth the  
 20 material details in which such documents differ from the documents filed.

21 §691.7. Standards and management of an insurer within an insurance holding  
 22 company system

23 A.

24 \* \* \*

25 (1) Transactions within an insurance holding company system to which an  
 26 insurer subject to registration is a party shall be subject to the following standards:

27 \* \* \*

28 (g)(i) If an insurer is deemed by the commissioner to be in a hazardous  
 29 financial condition, as defined in regulations promulgated by the commissioner, or

1 a condition that would be grounds for supervision, conservation, or a delinquency  
2 proceeding, the commissioner may require the insurer to secure and maintain either  
3 a deposit, held by the commissioner, or a bond, as determined by the insurer at the  
4 insurer's discretion, for the duration of the contract or agreement or the existence of  
5 the condition for which the commissioner required the deposit or the bond.

6 (ii) In determining whether a deposit or a bond is required, the commissioner  
7 may consider whether concerns exist with respect to the affiliated person's ability  
8 to fulfill the contract or agreement, if the insurer were to be put into liquidation.

9 (iii) Once the insurer is deemed to be in a hazardous financial condition or  
10 a condition that would be grounds for supervision, conservation, or a delinquency  
11 proceeding, such that a deposit or bond is necessary, the commissioner may  
12 determine the amount of the deposit or bond, not to exceed the value of the contract  
13 or agreement in any one year, and whether such deposit or bond should be required  
14 for a single contract, multiple contracts, or a contract with a specific person.

15 (h) All records and data of the insurer held by an affiliate are the property of  
16 the insurer, are subject to control of the insurer, are identifiable, and are segregated  
17 or readily capable of segregation, at no additional cost to the insurer, from all other  
18 persons' records and data. This includes all records and data that are otherwise the  
19 property of the insurer in whatever form maintained, including but not limited to  
20 claims and claim files, policyholder lists, application files, litigation files, premium  
21 records, rate books, underwriting manuals, personnel records, and financial records  
22 or similar records within the possession, custody, or control of the affiliate. At the  
23 request of the insurer, the affiliate shall provide that the receiver can obtain a  
24 complete set of all records of any type that pertain to the insurer's business, obtain  
25 access to the operating systems on which the data is maintained, obtain the software  
26 that runs those systems either through assumption of licensing agreements or  
27 otherwise, and restrict the use of the data by the affiliate if it is not operating the  
28 insurer's business. The affiliate shall provide a waiver of any landlord lien or other



1 §691.10. Confidential treatment

2 A.(1) Documents, materials, or other information in the possession or control  
3 of the ~~Department of Insurance~~ department that are obtained by or disclosed to the  
4 commissioner or any other person in the course of an examination or investigation  
5 made pursuant to R.S. 22:691.8 and all information reported or provided to the  
6 commissioner pursuant to R.S. 22:691.4(B)(12) and (13), 691.6, 691.7, and 691.9.1  
7 shall be recognized as proprietary information containing trade secrets, shall be  
8 confidential by law and privileged, shall not be subject to subpoena, and shall not be  
9 subject to discovery or admissible in evidence in any private civil action. However,  
10 the commissioner is authorized to use the documents, materials, or other information  
11 in the furtherance of any regulatory or legal action brought as a part of ~~the~~  
12 ~~commissioner's~~ his official duties. The commissioner shall not otherwise make the  
13 documents, materials, or other information public without the prior written consent  
14 of the insurer to which it pertains unless the commissioner, after giving the insurer  
15 and its affiliates who would be affected thereby notice and opportunity to be heard,  
16 determines that the interest of policyholders, shareholders, or the public will be  
17 served by the publication thereof, in which event the commissioner may publish all  
18 or any part in such manner as may be deemed appropriate.

19 (2) For purposes of the information reported and provided to the department  
20 pursuant to R.S. 22:691.6(M), the commissioner shall maintain the confidentiality  
21 of the group capital calculation and group capital ratio produced within the  
22 calculation and any group capital information received from an insurance holding  
23 company supervised by the United States Federal Reserve Board or any U.S. group-  
24 wide supervisor.

25 (3) For purposes of the information reported and provided to the department  
26 pursuant to R.S. 22:691.6(N), the commissioner shall maintain the confidentiality of  
27 the liquidity stress test results, supporting disclosures, and any liquidity stress test  
28 information received from an insurance holding company supervised by the United



1 (a) Specify procedures and protocols regarding the confidentiality and  
2 security of information shared with the NAIC ~~and its affiliates and subsidiaries~~ or a  
3 third-party consultant designated by the commissioner pursuant to this Subpart,  
4 including procedures and protocols for sharing by the NAIC with other state, federal,  
5 or international regulators. The agreement shall provide that the recipient agrees in  
6 writing to maintain the confidentiality and privileged status of the documents,  
7 materials, and other information and has verified, in writing, the legal authority to  
8 maintain such confidentiality.

9 (b) Specify that ownership of information shared with the NAIC ~~and its~~  
10 ~~affiliates and subsidiaries~~ or a third-party consultant pursuant to this Subpart remains  
11 with the commissioner and the NAIC's use of the information by the NAIC or a  
12 third-party consultant, designated by the commissioner, is subject to the direction of  
13 the commissioner.

14 (c) Excluding documents, materials, and information reported pursuant to  
15 R.S. 22:691.6(N), prohibit the NAIC or a third-party consultant, designated by the  
16 commissioner from storing the information shared pursuant to this Section in a  
17 permanent database after the underlying analysis is completed.

18 (d) Require prompt notice to be given to an insurer whose confidential  
19 information in the possession of the NAIC or a third-party consultant, designated by  
20 the commissioner, pursuant to this Subpart is subject to a request or subpoena to the  
21 NAIC or a third-party consultant designated by the commissioner for disclosure or  
22 production.

23 (d) (e) Require the NAIC ~~and its affiliates and subsidiaries~~ or a third-party  
24 consultant, designated by the commissioner, to consent to intervention by an insurer  
25 in any judicial or administrative action in which the NAIC ~~and its affiliates and~~  
26 ~~subsidiaries~~ or a third-party consultant, designated by the commissioner, may be  
27 required to disclose confidential information about the insurer shared with the NAIC  
28 ~~and its affiliates and subsidiaries~~ or a third-party consultant, designated by the  
29 commissioner, pursuant to this Subpart.



1 written publication, if the sole purpose thereof is to rebut the materially false  
 2 statement.

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## DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 715 Reengrossed

2022 Regular Session

Green

**Abstract:** Provides for the Insurance Holding Company System Regulatory Law.

Proposed law defines "group capital calculation instructions", "NAIC liquidity stress test framework", "scope criteria", "federal reserve", and "NAIC".

Present law provides that certain information does not need to be disclosed on the registration statement filed pursuant to present law if the information is not material to the purposes of present law.

Proposed law provides that present law does not apply for the purposes of the group capital calculation or the liquidity stress test framework.

Proposed law provides that the ultimate controlling person of every insurer subject to registration shall file an annual group capital calculation.

Proposed law provides that certain insurance holding companies are exempt from filing the group capital calculation.

Proposed law provides that the ultimate controlling person of every insurer subject to registration and scoped into the NAIC liquidity stress test shall file the results of the test.

Proposed law provides that insurers meeting at least one threshold of the scope criteria are considered scoped into the NAIC liquidity stress test framework for the specified data year, unless the lead state insurance commissioner, in consultation with the NAIC Financial Stability Task Force or its successor, determines the insurer should not be scoped into the Framework for that data year.

Present law provides for violations of present law and incorporation by reference. Proposed law retains and redesignates present law.

Proposed law provides certain standards that must be met for transactions with an insurance holding company system to which an insurer subject to registration is a party to the transaction.

Proposed law provides that any affiliate that is party to an agreement or contract with a domestic insurer shall be subject to the jurisdiction of any supervision, seizure, conservatorship, rehabilitation proceedings against the insurer.

Proposed law provides that certain documents, materials, and other information in the possession of the La. Department of Insurance shall be recognized as proprietary information, containing trade secrets.

Proposed law provides that the commissioner of insurance shall maintain the confidentiality of the group capital calculation and the liquidity stress test results and its supporting documents received from insurers.

Proposed law provides that the commissioner may share certain proprietary information and trade secret documents with other state, federal, and international law enforcement authorities.

Proposed law provides that the commissioner may receive proprietary and trade secret information from certain sources.

Proposed law provides that the commissioner may enter into written agreements with the NAIC, and any third-party consultants designated by the commissioner, governing the sharing and use of certain information.

Proposed law prohibits the disclosure of insurers' group capital calculation, group capital ratio, and liquidity stress test results, except as to rectify a misrepresentation of such data, if the sole purpose of the disclosure is to rebut a materially false statement regarding the data.

(Amends R.S. 22:691.2(intro. para.), 691.6(D), (M), and (N), and 691.10(A), (C)(1), (3), (4), and (F); Adds R.S. 22:691.2(13)-(15), 691.6(O) and (P), 691.7(A)(1)(g)-(i) and (6), and 691.10(G))

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Insurance to the original bill:

1. Make technical changes.

#### The House Floor Amendments to the engrossed bill:

1. Define "federal reserve" and "NAIC".
2. Change the term "receivership" as used in proposed law to "rehabilitation"
3. Make technical changes.