

1 SENATE BILL 277

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

4 Michael Padilla

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10 AN ACT

11 RELATING TO INSURANCE; AMENDING THE INSURANCE HOLDING COMPANY
12 LAW; ADDING DEFINITIONS; PROVIDING FOR GROUP CAPITAL
13 CALCULATION REPORTS AND LIQUIDITY STRESS TESTS.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 59A-37-2 NMSA 1978 (being Laws 1984,
17 Chapter 127, Section 617, as amended) is amended to read:

18 "59A-37-2. DEFINITIONS.--As used in the Insurance Holding
19 Company Law:

20 A. "acquire" means to come into possession or
21 control of, and "acquisition" means any agreement, arrangement
22 or activity the consummation of which results in a person
23 acquiring directly or indirectly the control of another person
24 and includes the acquisition of voting securities or assets,
25 bulk reinsurance and mergers;

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1 B. "affiliate" means a person that directly or
2 indirectly is controlled by, is under common control with or
3 controls another person;

4 C. "association" means the national association of
5 insurance commissioners;

6 D. "commissioner" means an insurance regulation
7 department of another state or the chief regulator or the
8 regulator's deputy of another state;

9 [~~E.~~] E. "control" means the possession of the power
10 to direct or cause the direction of the management and policies
11 of a person, whether directly or indirectly, through the
12 ownership of voting securities, through licensing or franchise
13 agreements, by contract other than a commercial contract for
14 goods or nonmanagement services, or otherwise, unless the power
15 is the result of an official position with or corporate office
16 held by an individual. Control shall be presumed to exist if
17 any person, directly or indirectly, owns, controls, holds with
18 the power to vote or holds proxies representing ten or more
19 percent of the voting securities of any other person. This
20 presumption may be rebutted by a showing, in the manner
21 provided by Section 59A-37-19 NMSA 1978, that control does not
22 in fact exist. The superintendent may determine, after
23 furnishing all persons in interest notice and an opportunity to
24 be heard, that control exists in fact, notwithstanding the
25 absence of a presumption to that effect; provided that the

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1 determination is based on specific findings of fact in its
2 support;

3 ~~[D.]~~ F. "enterprise risk" means an activity, a
4 circumstance, an event or a series of events involving one or
5 more affiliates of an insurer that, if not remedied promptly,
6 is likely to have a material adverse effect upon the financial
7 condition or liquidity of the insurer or its whole insurance
8 holding company system and includes a situation that would
9 cause a company action level event as defined in Section
10 59A-5A-4 NMSA 1978 or would cause the insurer to be in a
11 hazardous financial condition as defined in Section 59A-41-24
12 NMSA 1978;

13 G. "group-wide supervisor" means the regulatory
14 official authorized to conduct and coordinate group-wide
15 supervision activities who is determined or acknowledged by the
16 superintendent to have sufficient significant contacts with the
17 internationally active insurance group as described in the
18 National Association of Insurance Commissioners Model Laws,
19 Regulations, Guidelines and Other Resources 440-1;

20 ~~[E.]~~ H. "health maintenance organization" means a
21 person that undertakes to provide or arrange for the delivery
22 of basic health care services to enrollees on a prepaid basis;
23 provided that "prepaid basis" may include the payment of
24 copayments and deductibles by enrollees;

25 ~~[F.]~~ I. "insurance holding company" is a person

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1 that controls an insurer; "insurance holding company system"
2 means a combination of two or more affiliated persons, at least
3 one of which is an insurer;

4 ~~[G.]~~ J. "insurer" means a person that undertakes,
5 under contract, to indemnify a person against loss, damage or
6 liability arising from an unknown or contingent future event.
7 The term does not include agencies, authorities or
8 instrumentalities of the United States, its possessions or
9 territories, the commonwealth of Puerto Rico, the District of
10 Columbia, a state or any of its political subdivisions or a
11 fraternal benefit society;

12 K. "internationally active insurance group" means
13 an insurance holding company system that includes an insurer
14 registered pursuant to Section 59A-37-12 NMSA 1978 that:

15 (1) writes premiums in at least three
16 counties;

17 (2) produces gross premiums written outside of
18 the United States of at least ten percent of the insurance
19 holding company system's gross written premiums; and

20 (3) has total assets of at least fifty billion
21 dollars (\$50,000,000,000) based on a three-year rolling average
22 or has total gross written premiums of at least ten billion
23 dollars (\$10,000,000,000);

24 L. "large life insurance company" means a person,
25 as defined by the association, that contracts with a policy

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1 owner to guarantee to pay a sum of money to one or more named
2 beneficiaries when an insured person dies;

3 M. "liquidity stress test framework" means the
4 publication adopted or amended by the association that includes
5 the scope criteria for a specific data year and the liquidity
6 stress test instructions and reporting templates for a specific
7 data year;

8 ~~[H.]~~ N. "person" means an individual, corporation,
9 association, partnership, joint stock company, trust,
10 unincorporated organization or any similar entity or
11 combination of entities;

12 O. "scope criteria" means the designated exposure
13 bases and minimum magnitudes for a specified data year as
14 detailed by the association used to establish a preliminary
15 list of insurers scoped into the liquidity stress test
16 framework for a data year;

17 ~~[F.]~~ P. "securityholder" means the owner of any
18 security of a person, including common stock, preferred stock,
19 debt obligations and any other security convertible into or
20 evidencing the right to acquire any of the foregoing;

21 ~~[J.]~~ Q. "subsidiary" means an affiliate of a person
22 controlled by the person either directly or indirectly through
23 one or more intermediaries; and

24 ~~[K.]~~ R. "voting security" means a certificate
25 evidencing the ownership or indebtedness of a person, to which

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1 is attached a right to vote on the management or policymaking
2 of that person and includes any security convertible into or
3 evidencing a right to acquire such a voting security."

4 SECTION 2. Section 59A-37-30 NMSA 1978 (being Laws 2014,
5 Chapter 59, Section 44) is amended to read:

6 "59A-37-30. ENTERPRISE RISK FILING.--The [~~person who~~
7 ~~predominantly controls an~~] ultimate controlling person of every
8 insurer that is subject to registration shall file an
9 enterprise risk report each year. The report shall reflect
10 that person's knowledge and belief of the material risks within
11 the insurance holding company system that pose enterprise risk
12 to the insurer. The report shall be filed with the lead state
13 insurance supervisory official of the insurance holding company
14 system and in compliance with the relevant procedures outlined
15 in the financial analysis handbook adopted by the [~~national~~]
16 association [~~of insurance commissioners~~]."

17 SECTION 3. Section 59A-37-32 NMSA 1978 (being Laws 2014,
18 Chapter 59, Section 46) is amended to read:

19 "59A-37-32. SUPERVISORY COLLEGES.--

20 A. In order to determine compliance with the
21 Insurance Holding Company Law by an insurer registered pursuant
22 to Section 59A-37-11 NMSA 1978, the superintendent may
23 participate in a supervisory college for a domestic insurer
24 that is part of an insurance holding company system with
25 international operations. Concerning a supervisory college,

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1 the superintendent may:

2 (1) initiate its establishment;

3 (2) clarify its membership and the
4 participation of other supervisors;

5 (3) clarify its functions and the role of
6 other regulators, including the establishment of a group-wide
7 supervisor;

8 (4) coordinate its ongoing activities,
9 including planning meetings, supervision and processes for
10 information sharing; and

11 (5) establish a crisis management plan.

12 B. A registered insurer subject to this section
13 shall pay the reasonable expenses, including for travel,
14 associated with the superintendent's participation in a
15 supervisory college pursuant to Subsection C of this section.

16 A supervisory college may be convened as a temporary or
17 permanent forum for communication and cooperation between the
18 regulators charged with the supervision of the insurer or its
19 affiliates. The superintendent may establish a regular
20 assessment to the insurer for the payment of these expenses.

21 C. In order to assess the business strategy,
22 financial position, legal and regulatory position, risk
23 exposure, risk management and governance processes of an
24 insurer, and as part of the examination of individual insurers
25 pursuant to Section 59A-37-23 NMSA 1978, the superintendent may

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1 participate in a supervisory college with other regulators
2 charged with the supervision of the insurer or its affiliates,
3 including other state, federal and international regulatory
4 agencies. The superintendent may enter into agreements in
5 accordance with Subsection C of Section 59A-37-24 NMSA 1978
6 that provide the basis for cooperation between the
7 superintendent and the other regulatory agencies and the
8 activities of the supervisory college. Nothing in this section
9 shall delegate to the supervisory college the authority of the
10 superintendent to regulate or supervise the insurer or its
11 affiliates within its jurisdiction.

12 D. The superintendent may act as the group-wide
13 supervisor for an internationally active insurance group and
14 may also acknowledge another commissioner as the group-wide
15 supervisor when the internationally active insurance group:

16 (1) does not have substantial insurance
17 operations in the United States;

18 (2) has substantial insurance operations in
19 the United States, but not in New Mexico; or

20 (3) has substantial operations in the United
21 States, including in New Mexico, but the superintendent has
22 determined that another commissioner is the appropriate group-
23 wide supervisor.

24 E. An insurance holding company system that does
25 not qualify as an internationally active insurance group may

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1 request that the superintendent make a determination as to a
2 group-wide supervisor.

3 F. The superintendent shall identify a single
4 group-wide supervisor for an internationally active insurance
5 group in cooperation with other state, federal and
6 international regulatory agencies.

7 G. The superintendent may determine that the
8 superintendent is the appropriate group-wide supervisor for an
9 internationally active insurance group that conducts
10 substantial insurance operations conducted in New Mexico.

11 H. The superintendent may acknowledge that a
12 commissioner from another jurisdiction is the appropriate
13 group-wide supervisor. In making this determination, the
14 superintendent shall consider the following factors:

15 (1) the place of domicile of the insurers
16 within the internationally active insurance group that holds
17 the largest share of the group's written premiums, assets or
18 liabilities;

19 (2) the place of domicile of the top-tiered
20 insurers in the insurance holding company's system of the
21 internationally active insurance group;

22 (3) the location of the executive offices or
23 largest operational offices of the internationally active
24 insurance group;

25 (4) whether another commissioner is acting or

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1 seeking to act as the group-wide supervisor under a regulatory
2 system that the superintendent determines to be substantially
3 similar to New Mexico's system of regulation or otherwise
4 sufficient in terms of providing for group-wide supervision,
5 enterprise risk analysis and cooperation with other regulatory
6 officials; and

7 (5) whether the commissioner acting or seeking
8 to act as the group-wide supervisor provides the superintendent
9 with reasonably reciprocal recognition and cooperation.

10 I. Another commissioner identified as the
11 group-wide supervisor may determine that it is appropriate to
12 acknowledge another supervisor to serve as the group-wide
13 supervisor after considering the factors in Subsection H of
14 this section. Such acknowledgment shall be made in cooperation
15 with the subject of the acknowledgment, the internationally
16 active insurance group and other commissioners involved with
17 supervision of members of the internationally active insurance
18 group.

19 J. Notwithstanding any other provision of law, when
20 another commissioner is acting as the group-wide supervisor of
21 an internationally active insurance group, the superintendent
22 shall acknowledge that commissioner as the group-wide
23 supervisor."

24 **SECTION 4.** A new section of the Insurance Holding Company
25 Law is enacted to read:

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1 "[NEW MATERIAL] GROUP CAPITAL CALCULATION.--

2 A. Except as provided below, the ultimate
3 controlling person of an insurer subject to registration
4 pursuant to the provisions of the Insurance Code shall also
5 file an annual group capital calculation report in accordance
6 with the group capital calculation instructions in the
7 financial analysis handbook adopted by the association as
8 directed by the superintendent.

9 B. The following insurance holding company systems
10 shall be exempt from filing the group capital calculation
11 report:

12 (1) an insurance holding company system that
13 has only one insurer within its holding company structure, only
14 writes business and is licensed in its domestic state and
15 assumes no business from any other insurer;

16 (2) an insurance holding company system that
17 is required to perform a group capital calculation as specified
18 by the United States federal reserve board;

19 (3) an insurance holding company system whose
20 non-United States group-wide supervisor is located in a
21 reciprocal jurisdiction that recognizes the United States
22 regulatory approach to group supervision and group capital; and

23 (4) an insurance holding company system:
24 (a) that provides information to a lead
25 state that meets the association's accreditation requirements

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1 and financial standards; and

2 (b) whose non-United States group-wide
3 supervisor recognizes and accepts the world-wide capital
4 assessment for United States insurance groups that operate in
5 that jurisdiction.

6 C. If an insurance holding company system is
7 required to perform a group capital calculation with the United
8 States federal reserve board, the superintendent shall request
9 the calculation from the United States federal reserve board.
10 If the United States federal reserve board cannot share the
11 calculation, the insurance holding company system is not exempt
12 from the group capital calculation report.

13 D. Notwithstanding any other provisions of this
14 section, a lead state regulator shall require a group capital
15 calculation for United States operation of any non-United
16 States-based insurance holding company system where, after any
17 necessary consultation with other commissioners, it is deemed
18 appropriate by the lead state regulator for prudential
19 oversight and solvency monitoring purposes or for ensuring a
20 competitive insurance marketplace.

21 E. Notwithstanding the filing exemptions provided
22 in this section, the superintendent may exempt the ultimate
23 controlling person from filing that annual group capital
24 calculation and accept a limited group capital calculation
25 report in accordance with criteria specified by the

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1 superintendent in regulation.

2 F. If the superintendent determines that an
3 insurance holding company system no longer meets the
4 requirements for an exemption, the insurance holding company
5 system shall file the group capital calculation at the next
6 annual filing date unless given an extension by the
7 superintendent based on reasonable grounds shown."

8 SECTION 5. A new section of the Insurance Holding Company
9 Law is enacted to read:

10 "[NEW MATERIAL] LIQUIDITY STRESS TEST.--

11 A. A large life insurance company subject to
12 registration pursuant to the provisions of the Insurance Code
13 shall file the results of a specific year's liquidity stress
14 test in accordance with the instructions in the financial
15 analysis handbook adopted by the association as directed by the
16 superintendent.

17 B. A change to the association's liquidity stress
18 test framework or to the data year for which the scope criteria
19 are to be measured shall be effective on January 1 of the year
20 following the calendar year when the change was adopted.

21 C. A large life insurance company that meets the
22 requirements of the scope criteria is considered scoped into
23 the association's liquidity stress test framework for that data
24 year. A large life insurance company that does not meet the
25 requirements of the scope criteria is considered scoped out of

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1 the association's liquidity stress test framework for that data
2 year, unless the superintendent, in consultation with the
3 association's financial stability task force or its successor,
4 determines that the large life insurance company should be
5 scoped into the liquidity stress test framework for that year.

6 D. The superintendent shall, in consultation with
7 the association's financial stability task force or its
8 successor, assess the concerns of the superintendent's wishes
9 to avoid having insurers scoped in and out of the association's
10 liquidity stress test framework.

11 E. The superintendent shall comply with the
12 association's liquidity stress test framework instruction and
13 reporting templates and shall file the results of a specific
14 year's determinations.

15 F. A large life insurance company subject to
16 registration pursuant to the provisions of the Insurance Code
17 shall file the results of a specific year's liquidity stress
18 test in accordance with the instructions in the financial
19 analysis handbook adopted by the association as directed by the
20 superintendent.

21 G. A change to the association's liquidity stress
22 test framework or to the data year for which the scope criteria
23 are to be measured shall be effective on January 1 of the year
24 following the calendar year when the change was adopted."