

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 398

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

AN ACT

RELATING TO INSURANCE; AMENDING THE INSURANCE HOLDING COMPANY  
LAW; ADDING DEFINITIONS; PROVIDING FOR GROUP CAPITAL  
CALCULATION REPORTS AND LIQUIDITY STRESS TESTS; AMENDING THE  
HEALTH MAINTENANCE ORGANIZATION LAW TO MODIFY THE TIME LINE FOR  
EXAMINATIONS OF HEALTH MAINTENANCE ORGANIZATIONS AND CONTRACT  
PROVIDERS.

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

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

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

A. "acquire" means to come into possession or  
control of, and "acquisition" means any agreement, arrangement  
or activity the consummation of which results in a person

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underscoring material = new  
[bracketed material] = delete

1 acquiring directly or indirectly the control of another person  
2 and includes the acquisition of voting securities or assets,  
3 bulk reinsurance and mergers;

4 B. "affiliate" means a person that directly or  
5 indirectly is controlled by, is under common control with or  
6 controls another person;

7 C. "association" means the national association of  
8 insurance commissioners;

9 D. "commissioner" means an insurance regulation  
10 department of another state or the chief regulator or the  
11 regulator's deputy of another state;

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

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1 furnishing all persons in interest notice and an opportunity to  
2 be heard, that control exists in fact, notwithstanding the  
3 absence of a presumption to that effect; provided that the  
4 determination is based on specific findings of fact in its  
5 support;

6 ~~[D.]~~ F. "enterprise risk" means an activity, a  
7 circumstance, an event or a series of events involving one or  
8 more affiliates of an insurer that, if not remedied promptly,  
9 is likely to have a material adverse effect upon the financial  
10 condition or liquidity of the insurer or its whole insurance  
11 holding company system and includes a situation that would  
12 cause a company action level event as defined in Section  
13 59A-5A-4 NMSA 1978 or would cause the insurer to be in a  
14 hazardous financial condition as defined in Section 59A-41-24  
15 NMSA 1978;

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

23 ~~[E.]~~ H. "health maintenance organization" means a  
24 person that undertakes to provide or arrange for the delivery  
25 of basic health care services to enrollees on a prepaid basis;

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1 provided that "prepaid basis" may include the payment of  
2 copayments and deductibles by enrollees;

3 ~~[F.]~~ I. "insurance holding company" is a person  
4 that controls an insurer; "insurance holding company system"  
5 means a combination of two or more affiliated persons, at least  
6 one of which is an insurer;

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

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

18 (1) writes premiums in at least three  
19 counties;

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

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

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1 dollars (\$10,000,000,000);

2 L. "large life insurance company" means a person,  
3 as defined by the association, that contracts with a policy  
4 owner to guarantee to pay a sum of money to one or more named  
5 beneficiaries when an insured person dies;

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

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

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

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

24 [~~J.~~] Q. "subsidiary" means an affiliate of a person  
25 controlled by the person either directly or indirectly through

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1 one or more intermediaries; and

2 [K-] R. "voting security" means a certificate  
3 evidencing the ownership or indebtedness of a person, to which  
4 is attached a right to vote on the management or policymaking  
5 of that person and includes any security convertible into or  
6 evidencing a right to acquire such a voting security."

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

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

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

22 "59A-37-32. SUPERVISORY COLLEGES.--

23 A. In order to determine compliance with the  
24 Insurance Holding Company Law by an insurer registered pursuant  
25 to Section 59A-37-11 NMSA 1978, the superintendent may

1 participate in a supervisory college for a domestic insurer  
2 that is part of an insurance holding company system with  
3 international operations. Concerning a supervisory college,  
4 the superintendent may:

5 (1) initiate its establishment;

6 (2) clarify its membership and the  
7 participation of other supervisors;

8 (3) clarify its functions and the role of  
9 other regulators, including the establishment of a group-wide  
10 supervisor;

11 (4) coordinate its ongoing activities,  
12 including planning meetings, supervision and processes for  
13 information sharing; and

14 (5) establish a crisis management plan.

15 B. A registered insurer subject to this section  
16 shall pay the reasonable expenses, including for travel,  
17 associated with the superintendent's participation in a  
18 supervisory college pursuant to Subsection C of this section.  
19 A supervisory college may be convened as a temporary or  
20 permanent forum for communication and cooperation between the  
21 regulators charged with the supervision of the insurer or its  
22 affiliates. The superintendent may establish a regular  
23 assessment to the insurer for the payment of these expenses.

24 C. In order to assess the business strategy,  
25 financial position, legal and regulatory position, risk

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1 exposure, risk management and governance processes of an  
2 insurer, and as part of the examination of individual insurers  
3 pursuant to Section 59A-37-23 NMSA 1978, the superintendent may  
4 participate in a supervisory college with other regulators  
5 charged with the supervision of the insurer or its affiliates,  
6 including other state, federal and international regulatory  
7 agencies. The superintendent may enter into agreements in  
8 accordance with Subsection C of Section 59A-37-24 NMSA 1978  
9 that provide the basis for cooperation between the  
10 superintendent and the other regulatory agencies and the  
11 activities of the supervisory college. Nothing in this section  
12 shall delegate to the supervisory college the authority of the  
13 superintendent to regulate or supervise the insurer or its  
14 affiliates within its jurisdiction.

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

19 (1) does not have substantial insurance  
20 operations in the United States;

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

23 (3) has substantial operations in the United  
24 States, including in New Mexico, but the superintendent has  
25 determined that another commissioner is the appropriate group-

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1 wide supervisor.

2 E. An insurance holding company system that does  
3 not qualify as an internationally active insurance group may  
4 request that the superintendent make a determination as to a  
5 group-wide supervisor.

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

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

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

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

22 (2) the place of domicile of the top-tiered  
23 insurers in the insurance holding company's system of the  
24 internationally active insurance group;

25 (3) the location of the executive offices or

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1 largest operational offices of the internationally active  
2 insurance group;

3 (4) whether another commissioner is acting or  
4 seeking to act as the group-wide supervisor under a regulatory  
5 system that the superintendent determines to be substantially  
6 similar to New Mexico's system of regulation or otherwise  
7 sufficient in terms of providing for group-wide supervision,  
8 enterprise risk analysis and cooperation with other regulatory  
9 officials; and

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

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

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

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1 supervisor."

2 SECTION 4. A new section of the Insurance Holding Company  
3 Law is enacted to read:

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

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

12 B. The following insurance holding company systems  
13 shall be exempt from filing the group capital calculation  
14 report:

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

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

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

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- 1 (4) an insurance holding company system:  
2 (a) that provides information to a lead  
3 state that meets the association's accreditation requirements  
4 and financial standards; and  
5 (b) whose non-United States group-wide  
6 supervisor recognizes and accepts the world-wide capital  
7 assessment for United States insurance groups that operate in  
8 that jurisdiction.

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

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

24 E. Notwithstanding the filing exemptions provided  
25 in this section, the superintendent may exempt the ultimate

1 controlling person from filing that annual group capital  
2 calculation and accept a limited group capital calculation  
3 report in accordance with criteria specified by the  
4 superintendent in regulation.

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

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

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

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

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

24 C. A large life insurance company that meets the  
25 requirements of the scope criteria is considered scoped into

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1 the association's liquidity stress test framework for that data  
2 year. A large life insurance company that does not meet the  
3 requirements of the scope criteria is considered scoped out of  
4 the association's liquidity stress test framework for that data  
5 year, unless the superintendent, in consultation with the  
6 association's financial stability task force or its successor,  
7 determines that the large life insurance company should be  
8 scoped into the liquidity stress test framework for that year.

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

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

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

24 G. A change to the association's liquidity stress  
25 test framework or to the data year for which the scope criteria

1 are to be measured shall be effective on January 1 of the year  
2 following the calendar year when the change was adopted."

3 SECTION 6. Section 59A-46-19 NMSA 1978 (being Laws 1993,  
4 Chapter 266, Section 19) is amended to read:

5 "59A-46-19. EXAMINATIONS.--

6 A. The superintendent may make an examination of  
7 the affairs of any health maintenance organization and  
8 providers with whom [~~such~~] the health maintenance organization  
9 has contracts, agreements or other arrangements as often as is  
10 reasonably necessary for the protection of the interests of the  
11 people of this state, but not less frequently than once every  
12 [~~three~~] five years.

13 B. The superintendent may make or request the  
14 secretary of health to make an examination concerning the  
15 quality assurance program of the health maintenance  
16 organization and of any providers with whom [~~such~~] the health  
17 maintenance organization has contracts, agreements or other  
18 arrangements as often as is reasonably necessary for the  
19 protection of the interests of the people of this state.

20 C. Every health maintenance organization and  
21 provider shall submit its books and records for [~~such~~]  
22 examinations and in every way facilitate the completion of the  
23 examination. Medical records of individuals and contract  
24 providers shall not be subject to [~~such~~] examination. For the  
25 purpose of examinations, the superintendent and the secretary

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1 of health may administer oaths to and examine the officers and  
2 agents of the health maintenance organization and the  
3 principals of [~~such~~] the providers concerning their business.

4 D. The expenses of examinations under this section  
5 shall be assessed against the health maintenance organization  
6 being examined and remitted to the superintendent.

7 E. In lieu of [~~such~~] examination, the  
8 superintendent may accept the report of an examination made by  
9 the superintendent or secretary of health of another state.

10 F. Examination procedures shall be governed by the  
11 applicable provisions of Chapter 59A, Article 4 NMSA 1978."