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2 95th General Assembly
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4

A Bill

SENATE BILL 236

5 By: Senator J. Boyd
6 By: Representative Steimel
7

For An Act To Be Entitled

8
9 AN ACT TO AMEND THE INSURANCE HOLDING COMPANY
10 REGULATORY ACT; AND FOR OTHER PURPOSES.
11

Subtitle

12
13 TO AMEND THE INSURANCE HOLDING COMPANY
14 REGULATORY ACT.
15
16

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

19 SECTION 1. Arkansas Code § 23-63-503, concerning the definitions used
20 under the Insurance Holding Company Regulatory Act, is amended to add
21 additional subdivisions to read as follows:
22

23 (12) "Group capital calculation instructions" means the
24 instructions issued by the National Association of Insurance Commissioners
25 and adopted by rule by the commissioner;

26 (13)(A) "NAIC liquidity stress test framework" means the
27 publication of the National Association of Insurance Commissioners that
28 includes a history of the National Association of Insurance Commissioners'
29 development of regulatory liquidity stress testing, the scope criteria
30 applicable for a specific data year, and the liquidity stress test
31 instructions and reporting templates for a specific data year.

32 (B) "NAIC liquidity stress test framework" includes scope
33 criteria, instructions, and reporting templates; and

34 (14) "Scope criteria" means the designated exposure bases, and
35 the minimum magnitudes of the designated exposure bases for a specified data
36 year, used to establish a preliminary list of insurers considered scoped in
the NAIC liquidity stress test framework for that data year.



1
2 SECTION 2. Arkansas Code § 23-63-505 is amended to read as follows:

3 23-63-505. Subsidiaries of insurer.

4 (a)(1) ~~Authorization.~~ Any A domestic insurer, subject to this
5 subchapter, either by itself or in cooperation with one (1) or more persons,
6 may organize or acquire one (1) or more subsidiaries.

7 (2)(A) The subsidiaries under subdivision (a)(1) of this section
8 may conduct any kind of business authorized by state law.

9 (B) Being a subsidiary of a domestic insurer does not
10 limit the authority of the subsidiary to conduct business.

11 (b) In addition to investments in common stock, preferred stock, debt
12 obligations, and other securities permitted under this subchapter, a domestic
13 insurer may:

14 (1)(A) Invest in common stock, preferred stock, debt
15 obligations, and other securities of one (1) or more subsidiaries in amounts
16 that do not exceed the lesser of ten percent (10%) of the domestic insurer's
17 assets or fifty percent (50%) of the insurer's surplus in relation to
18 policyholders if after the investments, the domestic insurer's surplus is:

19 (i) Reasonable in relation to the domestic insurer's
20 outstanding liabilities; and

21 (ii) Adequate to meet the domestic insurer's
22 financial needs.

23 (B) In calculating the amounts of investments under
24 subdivision (b)(1)(A) of this section, the investments shall include:

25 (i) The total net moneys or other consideration
26 expended and obligations assumed in the acquisition or formation of a
27 subsidiary, including all organizational expenses and contributions to
28 capital and surplus of the subsidiary, whether or not represented by the
29 purchase of capital stock or issuance of other securities; and

30 (ii) All amounts expended in acquiring additional
31 common stock, preferred stock, debt obligations, and other securities and all
32 contributions to the capital or surplus of a subsidiary after the acquisition
33 or formation of a subsidiary.

34 (C) In calculating the amount of investments under
35 subdivision (b)(1)(A) of this section, the investments in the domestic
36 insurer's or foreign insurance company's subsidiaries and health maintenance

1 organizations are excluded;

2 (2)(A) Invest any amount in common stock, preferred stock, debt
 3 obligations, and other securities of one (1) or more subsidiaries engaged or
 4 organized to engage exclusively in the ownership and management of assets
 5 authorized as investments for the domestic insurer if each subsidiary agrees
 6 to limit its investments in any asset so that the investments will not cause
 7 the amount of the total investment of the domestic insurer to exceed any of
 8 the investment limitations specified in subdivision (b)(1)(A) of this section
 9 or in § 23-63-801 et seq., if applicable to the insurer.

10 (B) As used in subdivision (b)(2)(A) of this section, “the
 11 total investment of the domestic insurer” includes:

12 (i) Any direct investment by the domestic insurer in
 13 an asset; and

14 (ii) The domestic insurer’s proportionate share of
 15 any investment in an asset by a subsidiary of the domestic insurer, and which
 16 shall be calculated by multiplying the amount of the subsidiary’s investment
 17 by the percentage of the ownership of the subsidiary; and

18 (3) With the approval of the Insurance Commissioner, invest any
 19 greater amount in common stock, preferred stock, debt obligations, or other
 20 securities of one (1) or more subsidiaries, if after the investments, the
 21 domestic insurer’s surplus is:

22 (A) Reasonable in relation to the domestic insurer’s
 23 outstanding liabilities; and

24 (B) Adequate to meet the domestic insurer’s financial
 25 needs.

26 (c) Qualification of Investment — When Determined. Whether any
 27 investment ~~pursuant to~~ under subsection (a) of this section meets the
 28 applicable requirements ~~thereof~~ of subsection (a) of this section is to be
 29 determined immediately after the investment is made, taking into account the
 30 then-outstanding principal balance on all previous investments in debt
 31 obligations and the value of all previous investments in equity securities as
 32 of the date they were made.

33 (e)(d) Cessation of Control. If an insurer ceases to control a
 34 subsidiary, it shall dispose of any investment ~~therein~~ in the subsidiary made
 35 ~~pursuant to~~ under this section within three (3) years from the time of the
 36 cessation of control or within such further time as the ~~Insurance~~

1 ~~Commissioner~~ commissioner may prescribe unless, at any time after the
 2 investment ~~shall have~~ has been made, the investment shall have met the
 3 requirements for investment under any other section of this subchapter and
 4 the insurer has notified the commissioner ~~thereof~~ that those requirements for
 5 investments have been met.

6
 7 SECTION 3. Arkansas Code § 23-63-510 is amended to read as follows:

8 23-63-510. Control of or merger with domestic insurer – Approval by
 9 commissioner – Hearing.

10 (a) The Insurance Commissioner shall approve any merger or other
 11 acquisition of control referred to in § 23-63-506 unless, after a public
 12 hearing ~~thereon~~ on the merger or other acquisition of control, he or she
 13 finds that:

14 (1) After change of control, the domestic insurer referred to in
 15 § 23-63-506 would not be able to satisfy the requirements for the issuance of
 16 a license to write the line or lines of insurance for which it is presently
 17 licensed;

18 (2)(A) The effect of the merger or other acquisition of control
 19 would be substantially to lessen competition in insurance in this state or
 20 tend to create a monopoly ~~therein~~ in this state.

21 (B) In applying the competitive standard under subdivision
 22 (a)(2)(A) of this section:

23 (i) The information required under §§ 23-63-527(b)
 24 and 23-63-528(b) shall not apply;

25 (ii) The merger or other acquisition of control
 26 shall not be disapproved if the commissioner finds that any of the situations
 27 meeting the criteria under § 23-63-528(c) exist; and

28 (iii) The commissioner may condition the approval of
 29 the merger or other acquisition of control on the removal of the basis of
 30 disapproval within a specified period of time;

31 (3) The financial condition of any acquiring party is such as
 32 might jeopardize the financial stability of the insurer or prejudice the
 33 interest of its policyholders or the interests of any remaining security
 34 holders who are unaffiliated with the acquiring party;

35 (4) The terms of the offer, request, invitation, agreement, or
 36 acquisition referred to in § 23-63-506 are unfair and unreasonable to the

1 security holders of the insurer;

2 (5) The plans or proposals which the acquiring party has to
3 liquidate the insurer, sell its assets, or consolidate or merge it with any
4 person, or to make any other material change in its business or corporate
5 structure or management are unfair and unreasonable to policyholders of the
6 insurer and not in the public interest; or

7 (6) The competence, experience, and integrity of those persons
8 who would control the operation of the insurer are such that it would not be
9 in the interest of policyholders of the insurer and of the public to permit
10 the merger or other acquisition of control.

11 (b)(1) The public hearing referred to in subsection (a) of this
12 section shall be held within thirty (30) days after the statement required by
13 § 23-63-506 is filed, and at least twenty (20) days' notice of the hearing
14 shall be given by the commissioner to the person filing the statement.

15 (2) Not less than seven (7) days' notice of the public hearing
16 shall be given by the person filing the statement to the insurer and to the
17 other persons as may be designated by the commissioner.

18 (3)(A) The commissioner shall make a determination within the
19 sixty-day period preceding the effective date of the proposed transaction.

20 (B) In connection with the change in control of the
21 insurer, any determination by the commissioner that the person acquiring
22 control of a domestic insurer shall be required to maintain or restore the
23 capital of the insurer to the level required by the laws and rules of this
24 state shall be made not later than sixty (60) calendar days after the date of
25 notification of the change in control submitted pursuant to § 23-63-506(b).

26 (4) At the hearing, the person filing the statement, the
27 insurer, any person to whom notice of hearing was sent, and any other person
28 whose interests may be affected thereby shall have the right to present
29 evidence, examine, and cross-examine witnesses, and offer oral and written
30 arguments and, in connection therewith, shall be entitled to conduct
31 discovery proceedings in the same manner as is presently allowed in the
32 courts of this state.

33 (5) All discovery proceedings shall be concluded not later than
34 three (3) days ~~prior to~~ before the commencement of the public hearing.

35 (6)(A) If a proposed acquisition of control requires the
36 approval of more than one (1) state insurance commissioner, the public

1 hearing referred to in subsection (a) of this section may be held on a
 2 consolidated basis upon request of the person filing the statement under §
 3 23-63-506(a)(2)(A).

4 (B) The party requesting a consolidated hearing under
 5 subdivision (b)(6)(A) of this section shall file the statement with the
 6 National Association of Insurance Commissioners within five (5) days of the
 7 request.

8 (C) A state insurance commissioner may opt out of a
 9 consolidated hearing and shall provide notice to the applicant of the opt-out
 10 within ten (10) days of receipt of the statement.

11 (D) A hearing conducted on a consolidated basis shall be:
 12 (i) Public; and
 13 (ii) Held within the United States before the
 14 commissioners of the states in which the insurers are domiciled.

15 (E) The state insurance commissioners shall hear
 16 testimony, examine witnesses, and receive evidence.

17 (F) A state insurance commissioner may attend a
 18 consolidated hearing in person or by telecommunication.

19
 20 SECTION 4. Arkansas Code § 23-63-514(c), concerning materiality under
 21 the Insurance Holding Company Regulatory Act, is amended to read as follows:

22 (c) Materiality.

23 (1)(A) No information need be disclosed on the registration
 24 statement filed pursuant to subsection (b) of this section if the information
 25 is not material for the purposes of this section.

26 (B) Unless the commissioner by rule or order provides
 27 otherwise, sales, purchases, exchanges, loans, or extensions of credit, or
 28 investments, involving one-half of one percent (0.5%) or less of an insurer's
 29 admitted assets as of the December 31 next-preceding shall not be deemed
 30 material for purposes of this section.

31 (C) For purposes of this section, materiality under this
 32 subsection shall not apply for purposes of the group capital calculation
 33 instructions or the NAIC liquidity stress test framework.

34 (2)(A) However, each registered insurer shall disclose in
 35 writing to the commissioner within five (5) business days following the
 36 declaration of a dividend and no less than ten (10) business days prior to

1 the payment of the dividend, all ordinary dividends payable to shareholders.

2 (B) The disclosure shall also be included in the reporting
3 insurer's next annual and restated insurance registration statement and upon
4 any statutory filing required under § 23-63-514 or § 23-63-515.

5
6 SECTION 5. Arkansas Code § 23-63-514(k) is repealed.

7 ~~(k) Violations. The failure to file a registration statement or any~~
8 ~~amendment thereto required by this section within the time specified for the~~
9 ~~filing shall be a violation of this section.~~

10
11 SECTION 6. Arkansas Code § 23-63-514, concerning the registration of
12 insurers, is amended to add additional subsections to read as follows:

13 (n) Group Capital Calculation.

14 (1) Except as provided below, the ultimate controlling person of
15 every insurer subject to this section shall concurrently file with the
16 insurer's registration an annual group capital calculation report as directed
17 by the lead state commissioner.

18 (2) The annual group capital calculation report under
19 subdivision (n)(1) of this section shall be:

20 (A) Completed according to the group capital calculation
21 instructions; and

22 (B) Filed with the lead state commissioner of the
23 insurance holding company system as determined by the Insurance Commissioner
24 according to the Financial Analysis Handbook procedures adopted by the
25 National Association of Insurance Commissioners, as adopted by rule of the
26 Insurance Commissioner.

27 (3)(A) The following insurance holding company systems are
28 exempt from filing an annual group capital calculation report under
29 subdivision (n)(1) of this section:

30 (i) An insurance holding company system that:
31 (a) Has only one (1) insurer within its
32 holding company structure;

33 (b) Is licensed and writes business only in
34 its domestic state; and

35 (c) Assumes no business from another insurer;
36 (ii)(a) An insurance holding company that is

1 required to perform a group capital calculation specified by the Board of
2 Governors of the Federal Reserve System.

3 (b) The lead state commissioner shall request
4 the group capital calculation from the Board of Governors of the Federal
5 Reserve System under an information sharing agreement, if applicable.

6 (c) If the Board of Governors of the Federal
7 Reserve System cannot share the group capital calculation with the lead state
8 commissioner, the insurance holding company system is not exempt from the
9 group capital calculation filing;

10 (iii) An insurance holding company system whose non-
11 United States group-wide supervisor is located within a reciprocal
12 jurisdiction as described in § 23-62-305 that recognizes the United States
13 state regulatory approach to group supervision and group capital; and

14 (iv) An insurance holding company:

15 (a) That provides information to the lead
16 state that meets the requirements for accreditation under the NAIC Financial
17 Regulation Standards and Accreditation Program, either directly or
18 indirectly, through the group-wide supervisor, who has determined the
19 information is satisfactory to allow the lead state to comply with the
20 National Association of Insurance Commissioners group supervision approach,
21 as detailed in the NAIC Financial Analysis Handbook; and

22 (b) Whose non-United States group-wide
23 supervisor that is not in a reciprocal jurisdiction recognizes and accepts,
24 as specified by the Insurance Commissioner by rule, the group capital
25 calculation as the world-wide group capital assessment for United States
26 insurance groups who operate in that jurisdiction.

27 (B) Notwithstanding subdivisions (n)(3)(A)(iii) and (iv)
28 of this section, a lead state commissioner shall require the group capital
29 calculation instructions for United States operations of any non-United
30 States based insurance holding company system when it is deemed appropriate
31 by the lead state commissioner for prudential oversight and solvency
32 monitoring purposes or for ensuring the competitiveness of the insurance
33 marketplace.

34 (4) Notwithstanding the exemptions from filing the group capital
35 calculations stated in subdivisions (n)(3)(A)(i) and (iv) of this section,
36 the lead state commissioner has the discretion to exempt the ultimate

1 controlling person from filing the annual group calculation or to accept a
2 limited group capital filing or report in accordance with criteria as
3 specified by the Insurance Commissioner by rule.

4 (5) If the lead state commissioner determines that an insurance
5 holding company system no longer meets one (1) or more of the requirements
6 for an exemption from filing the group capital calculation under subdivision
7 (n)(3) of this section, the insurance holding company system shall file the
8 group capital calculation at the next annual filing date unless given an
9 extension by the lead state commissioner.

10 (o)(1) Liquidity Stress Test. The ultimate controlling person of
11 every insurer subject to registration and scoped into the NAIC liquidity
12 stress test framework shall file the results of a specific year's NAIC
13 liquidity stress test framework.

14 (2) The filing under subdivision (o)(1) of this section shall be
15 made to the lead state insurance commissioner of the insurance holding
16 company system, as determined by the procedures within the Financial Analysis
17 Handbook adopted by the National Association of Insurance Commissioners and
18 adopted by rule by the Insurance Commissioner.

19 (3)(A) The NAIC liquidity stress test framework includes scope
20 criteria that is applicable to a specific date year.

21 (B) The scope criteria is reviewed at least annually by
22 the NAIC Financial Stability E Task Force or its successor.

23 (C) Any change to the NAIC liquidity stress test framework
24 or to the data year for which the scope criteria are to be measured shall be
25 effective on January 1 of the year following the calendar year when the
26 changes are adopted.

27 (D) An insurer that meets at least one (1) threshold of
28 the scope criteria is considered scoped into the NAIC liquidity stress test
29 framework for the specified date year unless the lead state insurance
30 commissioner, in consultation with the NAIC Financial Stability E Task Force
31 or its successor, determines that the insurer should not be scoped into the
32 NAIC liquidity stress test framework for that data year.

33 (E) An insurer that does not trigger at least one (1)
34 threshold of the scope criteria is considered scoped out of the NAIC
35 liquidity stress test framework for the specified data year, unless the lead
36 state insurance commissioner, in consultation with the NAIC Financial

1 Stability E Task Force or its successor, determines the insurer should be
 2 scoped into the NAIC liquidity stress test framework for that data year.

3 (4) The performance of, and filing of the results from, a
 4 specific year's NAIC liquidity stress test framework shall comply with:

5 (A) The NAIC liquidity stress test framework's
 6 instructions and reporting templates for that year; and

7 (B) Any lead state insurance commissioner determinations,
 8 in consultation with the NAIC Financial Stability E Task Force or its
 9 successor, provided within the NAIC liquidity stress test framework.

10 (p) Violations. The failure to file a registration statement, summary
 11 of the registration statement, or enterprise risk filing required by this
 12 section within the time specified is a violation of this section.

13
 14 SECTION 7. Arkansas Code § 23-63-515(a), concerning material
 15 transactions by an insurer under the Insurance Holding Company Act, is
 16 amended to read as follows:

17 (a)(1) Material transactions by insurers registered with the Insurance
 18 Commissioner under § 23-63-514 with their affiliates shall be subject to the
 19 following standards:

20 (A) The terms shall be fair and reasonable;

21 (B) The books, accounts, and records of every party shall
 22 be so maintained as to clearly and accurately disclose the precise nature and
 23 details of the transactions, including such accounting information as is
 24 necessary to support the reasonableness of the charges or fees to the
 25 respective parties;

26 (C) The insurer's surplus as regards policyholders
 27 following any dividends or distributions to shareholder affiliates shall be
 28 reasonable in relation to the insurer's outstanding liabilities and adequate
 29 to its financial needs;

30 (D) The charges or fees for services performed shall be
 31 reasonable;

32 (E) The expenses incurred and payment received shall be
 33 allocated to the insurer in conformity with customary insurance accounting
 34 practices consistently applied; and

35 (F) The commissioner by rule may establish additional
 36 requirements for a cost-sharing service agreement or a management agreement.

1 (G)(i) If an insurer subject to this subchapter is deemed
2 by the commissioner to be in a hazardous financial condition as defined by
3 rule or a condition that would be grounds for supervision, conservation, or a
4 delinquency proceeding, the commissioner may require the insurer to secure
5 and maintain either a deposit, held by the commissioner, or a bond, as
6 determined by the insurer, for the duration of the transaction or until the
7 condition no longer exists.

8 (ii) In determining whether or not a deposit or bond
9 is required, the commissioner may consider if concerns exist with respect to
10 the affiliate's ability to fulfill the contract or agreement if the insurer
11 were to be put into liquidation.

12 (iii) Once the insurer is deemed to be in a
13 hazardous financial condition or a condition that would be grounds for
14 supervision, conservation, or a delinquency proceeding, and a deposit or bond
15 is necessary, the commissioner has discretion to determine the amount of the
16 deposit or bond, not to exceed the value of the transaction in any one (1)
17 year, and whether the deposit or bond should be required for each transaction
18 or only for transactions with specified persons.

19 (iv)(a) All records and data of an insurer held by
20 the insurer's affiliate shall remain the property of the insurer and be
21 subject to the insurer's control.

22 (b) Insurer records shall be identifiable and
23 segregated or readily capable of segregation from all other records and data
24 at no cost to the insurer.

25 (v)(a)(1) Premiums or other funds belonging to an
26 insurer that are collected by or held by the insurer's affiliate are the
27 exclusive property of the insurer and are subject to the control of the
28 insurer.

29 (2) Any right of offset in the event an
30 insurer is placed into receivership shall be subject to § 23-68-101 et seq.

31 (b) At the request of an insurer, the
32 insurer's affiliate shall provide that the receiver can obtain a complete set
33 of all records of any type that pertain to the insurer's business, obtain
34 access to the servers on which the data is maintained, obtain the software
35 that runs those systems either through assumption of licensing agreements or
36 otherwise, and restrict the use of the data by the affiliate if it is not

1 operating the insurer's business.

2 (c) The affiliate shall provide a waiver of
3 any landlord lien or other encumbrance to give the insurer access to all
4 records and data in the event of the affiliate's default under a lease or
5 other agreement.

6 (2)(A) A domestic insurer subject to this subchapter and a
7 person in its holding company system may not enter into a transaction, as
8 described in subdivision (a)(2)(B) of this section, unless the insurer
9 notifies the commissioner in writing of its intention at least thirty (30)
10 days before, or less, as the commissioner may permit, and the commissioner
11 does not disapprove of the transaction within such a period.

12 (B) A transaction that requires prior notice to the
13 commissioner by a domestic insurer includes:

14 (i) Sales, purchases, exchanges, loans or extensions
15 of credit, guarantees, or investments, provided the transactions are equal to
16 or exceed as of December 31 next-preceding:

17 (a) With respect to nonlife insurers, the
18 lesser of three percent (3%) of the insurer's admitted assets or twenty-five
19 percent (25%) of surplus as regards policyholders; and

20 (b) With respect to life insurers, three
21 percent (3%) of the insurer's admitted assets;

22 (ii) Loans or extensions of credit to any person who
23 is not an affiliate when the insurer makes the loans or extensions of credit
24 with the agreement or understanding that the proceeds of the transactions, in
25 whole or in substantial part, are to be used to make loans or extensions of
26 credit to, to purchase assets of, or to make investments in any affiliate of
27 the insurer making the loans or extensions of credit, provided that the
28 transactions are equal to or exceed as of December 31 next-preceding:

29 (a) With respect to nonlife insurers, the
30 lesser of three percent (3%) of the insurer's admitted assets or twenty-five
31 percent (25%) of surplus as regards policyholders; and

32 (b) With respect to life insurers, three
33 percent (3%) of the insurer's admitted assets;

34 (iii) Reinsurance agreements or modifications
35 thereto, including:

36 (a) All reinsurance pooling agreements; and

1 (b) Agreements in which the reinsurance
2 premium, a change in the insurer's liabilities, any projected reinsurance
3 premium, or a change in the insurer's liabilities in any of the next three
4 (3) years equals or exceeds five percent (5%) of the insurer's surplus as
5 regards policyholders, as of December 31 next-preceding, including those
6 agreements that may require as consideration the transfer of assets from an
7 insurer to a nonaffiliate, if an agreement or understanding exists between
8 the insurer and nonaffiliate that any portion of the assets will be
9 transferred to one (1) or more affiliates of the insurer;

10 (iv) All management agreements, service contracts,
11 tax allocation agreements, and all cost-sharing arrangements;

12 (v) Any material transactions specified by
13 regulation that the commissioner determines may adversely affect the
14 interests of the insurer's policyholders; and

15 (vi)(a) Any amendment or modification of an
16 affiliate agreement that is subject to the materiality standards under
17 subdivision (a)(1) of this section, including the reason for the amendment or
18 modification and the financial impact on the domestic insurer.

19 (b) A domestic insurer shall notify the
20 commissioner within thirty (30) days after a termination of a previously
21 filed agreement in a format that is acceptable to the commissioner, to
22 determine if further reporting or filing is required.

23 (3) A domestic insurer subject to this subchapter may not enter
24 into transactions which are part of a plan or series of like transactions
25 with persons within the holding company system if the purpose of those
26 separate transactions is to avoid the threshold amount and thus avoid the
27 review that would otherwise occur. If the commissioner determines that those
28 separate transactions were entered into over any twelve-month period for such
29 a purpose, the commissioner may exercise his or her authority under § 23-63-
30 522.

31 (4) In reviewing transactions pursuant to subdivision (a)(2) of
32 this section, the commissioner shall consider whether the transactions comply
33 with the standards set forth in subdivision (a)(1) of this section and
34 whether they may adversely affect the interests of policyholders.

35 (5) The commissioner shall be notified within thirty (30) days
36 of any investment of a domestic insurer subject to this subchapter in any one

1 (1) corporation if the total investment in such a corporation by the
 2 insurance holding company system exceeds ten percent (10%) of the
 3 corporation's voting securities.

4 (6)(A) An affiliate that is a party to a contract with a
 5 domestic insurer subject to subdivision (a)(2)(B)(iv) of this section is
 6 subject to:

7 (i) The jurisdiction of any supervision, seizure,
 8 conservatorship, or receivership proceedings against the insurer; and

9 (ii) The authority of any supervisor, conservator,
 10 rehabilitator, or liquidator for the insurer appointed under § 23-68-101 et
 11 seq., for the purpose of interpreting, enforcing, and overseeing the
 12 affiliate's obligations.

13 (B) The affiliates' obligations under subdivision
 14 (a)(6)(A)(ii) of this section include those that:

15 (i) Are an integral part of the insurer's
 16 operations, including without limitation management, administration,
 17 accounting, data processing, marketing, underwriting, claims handling,
 18 investment, or any other similar functions; or

19 (ii) Are essential to the insurer's ability to
 20 fulfill its obligations under insurance policies.

21 (C) The commissioner may require that a contract under
 22 subdivision (a)(2)(B)(iv) of this section for the provisions of services
 23 described in subdivisions (a)(6)(A)(i) and (ii) of this section specify that
 24 the affiliate consents to the jurisdiction stated in subdivision (a)(6)(A) of
 25 this section.

26
 27 SECTION 8. Arkansas Code § 23-63-517(a), concerning confidentiality
 28 under the Insurance Holding Company Act, is amended to read as follows:

29 (a)(1) All information and documents obtained by or disclosed to the
 30 Insurance Commissioner or any other person in the course of an examination or
 31 investigation made under § 23-63-516 and all information reported under §§
 32 23-63-514 and 23-63-515 shall be given confidential treatment and shall not
 33 be subject to subpoena or discovery or admissible in evidence in any private
 34 civil action or be made public by the commissioner under the Freedom of
 35 Information Act of 1967, § 25-19-101 et seq., or any other public records
 36 law, or by the National Association of Insurance Commissioners. However, the

1 commissioner is authorized to use the documents, materials, or other
2 information in the furtherance of any regulatory or legal action brought as
3 part of the commissioner's duties.

4 (2)(A)(i) Information provided to the State Insurance Department
5 under § 23-63-514(n) shall be confidential with respect to the group capital
6 calculation, the group capital ratio produced within the calculation, and any
7 group capital information received from an insurance holding company
8 supervised by the Board of Governors of the Federal Reserve System or any
9 United States group-wide supervisor.

10 (ii) The commissioner may use the documents,
11 materials, or other information in the furtherance of any regulatory or legal
12 action brought as part of the commissioner's duties.

13 (B)(i) Information provided to the department under § 23-
14 63-514(o) shall be confidential with respect to the results of the NAIC
15 liquidity stress test framework, supporting disclosures, and any liquidity
16 stress test information received from an insurance holding company supervised
17 by the Board of Governors of the Federal Reserve System and non-United States
18 group-wide supervisors.

19 (ii) The commissioner may use the documents,
20 materials, or other information in the furtherance of any regulatory or legal
21 action brought as part of the commissioner's duties.

22 (3) The information, documents, and copies of the information
23 shall not be subject to subpoena or be made public without the prior written
24 consent of the insurer to which it pertains unless the commissioner, after
25 giving the insurer and any of the insurer's affiliates that may be affected
26 notice and an opportunity to be heard, determines that the interests of
27 policyholders, shareholders, or the public will be served by the publication
28 of the information.

29 ~~(3)~~(4) In that event, the commissioner may publish any part of
30 the information in the manner the commissioner considers appropriate.

31
32
33 **APPROVED: 3/12/25**
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