

By: Senator(s) Michel

To: Insurance

## SENATE BILL NO. 2412

1       AN ACT TO AMEND SECTIONS 83-6-1, 83-6-3, 83-6-5, 83-6-7,  
2 83-6-21 AND 83-6-29 TO INCLUDE NAIC GROUP CAPITAL CALCULATION AND  
3 LIQUIDITY STRESS TEST REQUIREMENTS IN THE INSURANCE HOLDING  
4 COMPANY ACT; AND FOR RELATED PURPOSES.

5       BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6       **SECTION 1.** Section 83-6-1, Mississippi Code of 1972, is  
7 amended as follows:

8       83-6-1. As used in this chapter the following terms have the  
9 respective meanings herein set forth unless the context shall  
10 require otherwise:

11           (a) An "affiliate of" or person "affiliated" with a  
12 specific person means a person that directly, or indirectly  
13 through one or more intermediaries, controls, or is controlled by,  
14 or is under common control with, the person specified.

15           (b) "Commissioner" means the Commissioner of Insurance.

16           (c) "Control" (including the terms "controlling,"  
17 "controlled by" and "under common control with") means the  
18 possession of the power to direct or cause the direction of the  
19 management and policies of a person, whether through the ownership

20 of voting securities, by contract other than a commercial contract  
21 for goods or nonmanagement services or otherwise, unless the power  
22 is the result of an official position with or corporate office  
23 held by the person. "Control" shall be presumed to exist if any  
24 person, directly or indirectly, owns, controls, holds with the  
25 power to vote or holds proxies representing ten percent (10%) or  
26 more of the voting securities of any other person. This  
27 presumption may be rebutted by a showing made in the manner  
28 provided in Section 83-6-17 that control does not exist in fact.  
29 The commissioner may determine, after furnishing all persons in  
30 interest notice and opportunity to be heard and making specific  
31 findings of fact to support such determination, that control  
32 exists in fact, notwithstanding the absence of a presumption to  
33 that effect.

34 (d) An "insurance holding company system" consists of  
35 two (2) or more affiliated persons, one or more of which is an  
36 insurer.

37 (e) "Insurer" means only those companies subject to the  
38 jurisdiction of the commissioner as provided in Section 83-5-1;  
39 however, burial associations regulated pursuant to Chapter 37,  
40 Title 83, Mississippi Code of 1972, are excluded from this  
41 definition.

42 (f) "Person" means an individual, corporation,  
43 partnership, association, joint-stock company, trust,  
44 unincorporated organization, any similar entity or any combination



45 of the foregoing acting in concert, but shall not include any  
46 securities broker performing no more than the usual and customary  
47 broker's function.

48 (g) A "security holder" of a specified person means one  
49 who owns any security of such person, including common stock,  
50 preferred stock, debt obligations and any other security  
51 convertible into or evidencing the right to acquire any of the  
52 foregoing.

53 (h) "Subsidiary" of a specified person means an  
54 affiliate controlled by a person, directly or indirectly, through  
55 one or more intermediaries.

56 (i) The term "voting security" includes any security  
57 convertible into or evidencing a right to acquire a voting  
58 security.

59 (j) "Enterprise risk" shall mean any activity,  
60 circumstance, event or series of events involving one or more  
61 affiliates of an insurer that, if not remedied promptly, is likely  
62 to have a material adverse effect upon the financial condition or  
63 liquidity of the insurer or its insurance holding company system  
64 as a whole, including, but not limited to, anything that would  
65 cause the insurer's Risk-Based Capital to fall into company action  
66 level as provided in Section 83-5-405 or would cause the insurer  
67 to be in hazardous financial condition as provided in Part 1,  
68 Chapter 39, Title 19 of the Mississippi Administrative Code.



69 (k) "Group-wide supervisor" means the regulatory  
70 official authorized to engage in conducting and coordinating  
71 group-wide supervision activities who is determined or  
72 acknowledged by the commissioner under Section 83-6-47 to have  
73 sufficient significant contacts with the internationally active  
74 insurance group.

75 (1) "Internationally active insurance group" means an  
76 insurance holding company system that:

77 (i) Includes an insurer registered under Section  
78 83-6-3; and

79 (ii) Meets the following criteria:



93 as amended by the NAIC from time to time in accordance with the  
94 procedures adopted by the NAIC.

95 (n) "NAIC" means the National Association of Insurance  
96 Commissioners.

97 (o) "NAIC" Liquidity Stress Test Framework. The "NAIC  
98 Liquidity Stress Test Framework" is a separate NAIC publication  
99 which includes a history of the NAIC's development of regulatory  
100 liquidity stress testing, the Scope Criteria applicable for a  
101 specific data year, and the Liquidity Stress Test Framework  
102 instructions and reporting templates for a specific data year,  
103 such Scope Criteria, instructions and reporting template being as  
104 adopted by the NAIC and as amended by the NAIC from time to time  
105 in accordance with the procedures adopted by the NAIC.

106 (p) "Scope Criteria." The "Scope Criteria," as  
107 detailed in the NAIC Liquidity Stress Test Framework, are the  
108 designated exposure bases, along with minimum magnitudes thereof  
109 for the specified data year, used to establish a preliminary list  
110 of insurers considered scoped into the NAIC Liquidity Stress Test  
111 Framework for that data year.

112 **SECTION 2.** Section 83-6-3, Mississippi Code of 1972, is  
113 amended as follows:

114 83-6-3. Every insurer which is authorized to do business in  
115 this state and which is a member of an insurance holding company  
116 system, except a foreign insurer subject to disclosure  
117 requirements and standards adopted by statute or regulation in the



118 jurisdiction of its domicile which are substantially similar to  
119 those contained in Sections 83-6-3 through 83-6-19, is required to  
120 register with the commissioner. Any insurer which is subject to  
121 registration under Sections 83-6-3 through 83-6-19 is required to  
122 register within \* \* \* fifteen (15) days after it becomes subject  
123 to registration, whichever is later, unless the commissioner for  
124 good cause shown extends the time for registration, and then  
125 within such extended time. The commissioner may require any  
126 authorized insurer which is a member of a holding company system  
127 which is not subject to registration under Sections 83-6-3 through  
128 83-6-19 to furnish a copy of the registration statement or other  
129 information filed by such insurer with the insurance regulatory  
130 authority of its domiciliary jurisdiction.

131           **SECTION 3.** Section 83-6-5, Mississippi Code of 1972, is  
132 amended as follows:

133           83-6-5. (1) Every insurer subject to registration is  
134 required to file a registration statement on a form provided by  
135 the commissioner which shall contain current information setting  
136 forth:

137               (a) The capital structure, general financial condition,  
138 ownership and management of the insurer and any person controlling  
139 the insurer;

140               (b) The identity of every member of the insurance  
141 holding company system;

142 (c) The following agreements in force, relationships  
143 subsisting and transactions currently outstanding between such  
144 insurer and its affiliates:

145 (i) Loans, other investments or purchases, sales  
146 or exchanges of securities of the affiliates by the insurer or of  
147 the insurer by its affiliates;

148 (ii) Purchases, sales or exchanges of assets;

149 (iii) Transactions not in the ordinary course of  
150 business;

151 (iv) Guarantees or undertakings for the benefit of  
152 an affiliate which result in an actual contingent exposure of the  
153 insurer's assets to liability, other than insurance contracts  
154 entered into in the ordinary course of the insurer's business;

155 (v) All management and service contracts and all  
156 cost-sharing arrangements, other than cost allocation arrangements  
157 based upon generally accepted accounting principles;

158 (vi) Reinsurance agreements covering all or  
159 substantially all of one or more lines of insurance of the ceding  
160 company;

161 (vii) Dividends and other distributions to  
162 shareholders; and

163 (viii) Consolidated tax allocation agreements.

164 (d) Any pledge of the insurer's stock, including stock  
165 of any subsidiary or controlling affiliate, for a loan made to any  
166 member of the insurance holding company system;



167 (e) If requested by the commissioner, the insurer shall  
168 include financial statements of or within an insurance holding  
169 company system, including all affiliates. Financial statements  
170 may include, but are not limited to, annual audited financial  
171 statements filed with the United States Securities and Exchange  
172 Commission (SEC) pursuant to the Securities Act of 1933, as  
173 amended, or the Securities Exchange Act of 1934, as amended. An  
174 insurer required to file financial statements pursuant to this  
175 paragraph may satisfy the request by providing the commissioner  
176 with the most recently filed parent corporation financial  
177 statements that have been filed with the SEC;

178 (f) Other matters concerning transactions between  
179 registered insurers and any affiliates as may be included from  
180 time to time in any registration forms adopted or approved by the  
181 commissioner;

182 (g) Statements that the insurer's board of directors  
183 oversees corporate governance and internal controls and that the  
184 insurer's officers or senior management have approved,  
185 implemented, and continue to maintain and monitor corporate  
186 governance and internal control procedures.

189 (2) All registration statements shall contain a summary  
190 outlining all items in the current registration statement  
191 representing changes from the prior registration statement.



192 (3) Subject to Section 83-6-25, each registered insurer  
193 shall report to the commissioner all dividends and other  
194 distributions to shareholders within fifteen (15) business days  
195 following the declaration thereof.

196 (4) Any person within an insurance holding company system  
197 subject to registration shall be required to provide complete and  
198 accurate information to an insurer, where the information is  
199 reasonably necessary to enable the insurer to comply with the  
200 provisions of this chapter.

201        (5) **Enterprise Risk Filings.** ( \* \* \*a) The ultimate  
202        controlling person of every insurer subject to registration shall  
203        also file an annual enterprise risk report. The report shall, to  
204        the best of the ultimate controlling person's knowledge and  
205        belief, identify the material risks within the insurance holding  
206        company system that could pose enterprise risk to the insurer.  
207        The report shall be filed with the \* \* \* Commissioner of Insurance  
208        of the insurance holding company system as determined by the  
209        procedures within the Financial Analysis Handbook adopted by the  
210        National Association of Insurance Commissioners.



217 the Commissioner of Insurance to allow a controlling person that  
218 is not the ultimate controlling person to file the group capital  
219 calculation. The report shall be filed with the insurance holding  
220 company system as determined by the commissioner in accordance  
221 with the procedures within the Financial Analysis Handbook adopted  
222 by the NAIC. Insurance holding company systems described below  
223 are exempt from filing the group capital calculation:

224 (i) An insurance holding company system that has  
225 only one (1) insurer within its holding company structure, that  
226 only writes business and is only licensed in its domestic state,  
227 and assumes no business from any other insurer;

228 (ii) An insurance holding company system that is  
229 required to perform a group capital calculation specified by the  
230 United States Federal Reserve Board. The Commissioner of  
231 Insurance shall request the calculation from the Federal Reserve  
232 Board under the terms of information sharing agreements in effect.  
233 If the Federal Reserve Board cannot share the calculation with the  
234 Commissioner of Insurance, the insurance holding company system is  
235 not exempt from the group capital calculation filing;

236 (iii) An insurance holding company system whose  
237 non-U.S. group-wide supervisor is located within a reciprocal  
238 jurisdiction as described in Section 83-19-151(f)(1) that  
239 recognizes the U.S. State Regulatory approach to group supervision  
240 and group capital;

241 (iv) An insurance holding company system:



242                           1. That provides information to the  
243 Commissioner of Insurance that meets the requirements for  
244 accreditation under the NAIC financial standards and accreditation  
245 program, either directly or indirectly through the group-wide  
246 supervisor, who has determined such information is satisfactory to  
247 allow the Commissioner of Insurance to comply with the NAIC group  
248 supervision approach, as detailed in the NAIC Financial Analysis  
249 Handbook, and

250                           2. Whose non-U.S. group-wide supervisor who  
251 is not in a reciprocal jurisdiction recognizes and accepts, as  
252 specified by the commissioner in regulation, the group capital  
253 calculation as the world-wide group capital assessment for U.S.  
254 insurance groups who operate in that jurisdiction.

255                           (v) Notwithstanding the provisions of Sections  
256 83-6-5(5)(b)(iii) and 83-6-5(5)(b)(iv), a Commissioner of  
257 Insurance shall require the group capital calculation for U.S.  
258 operations of any non-U.S. based insurance holding company system  
259 where, after any necessary consultation with other supervisors or  
260 officials, it is deemed appropriate by the Commissioner of  
261 Insurance for prudential oversight and solvency monitoring  
262 purposes or for ensuring the competitiveness of the insurance  
263 marketplace.

264                           (vi) Notwithstanding the exemptions from filing  
265 the group capital calculation stated in Sections 83-6-5(5)(b)(i)  
266 through 83-6-5(5)(b)(iv), the Commissioner of Insurance has the



267 discretion to exempt the ultimate controlling person from filing  
268 the annual group capital calculation or to accept a limited group  
269 capital filing or report in accordance with criteria as specified  
270 by the commissioner in regulation.

271 (vii) If the Commissioner of Insurance determines  
272 that an insurance holding company system no longer meets one or  
273 more of the requirements for an exemption from filing the group  
274 capital calculation under this section, the insurance holding  
275 company system shall file the group capital calculation at the  
276 next annual filing date unless given an extension by the  
277 Commissioner of Insurance based on reasonable grounds shown.

278 (c) Liquidity Stress Test. The ultimate controlling  
279 person of every insurer subject to registration and also scoped  
280 into the NAIC Liquidity Stress Test Framework shall file the  
281 results of a specific year's Liquidity Stress Test. The filing  
282 shall be made to the Commissioner of Insurance of the insurance  
283 holding company system as determined by the procedures within the  
284 Financial Analysis Handbook adopted by the National Association of  
285 Insurance Commissioners:

286 (i) The NAIC Liquidity Stress Test Framework  
287 includes Scope Criteria applicable to a specific data year. These  
288 Scope Criteria are reviewed at least annually by the Financial  
289 Stability Task Force or its successor. Any change to the NAIC  
290 Liquidity Stress Test Framework or to the data year for which the  
291 Scope Criteria are to be measured shall be effective on January 1



292 of the year following the calendar year when such changes are  
293 adopted. Insurers meeting at least one (1) threshold of the Scope  
294 Criteria are considered scoped into the NAIC Liquidity Stress Test  
295 Framework for the specified data year unless the Commissioner of  
296 Insurance, in consultation with the NAIC Financial Stability Task  
297 Force or its successor, determines the insurer should not be  
298 scoped into the NAIC Liquidity Stress Test Framework for that data  
299 year. Similarly, insurers that do not trigger at least one (1)  
300 threshold of the Scope Criteria are considered scoped out of the  
301 NAIC Liquidity Stress Test Framework for the specified data year,  
302 unless the Commissioner of Insurance, in consultation with the  
303 NAIC Financial Stability Task Force or its successor, determines  
304 the insurer should be scoped into the NAIC Liquidity Stress Test  
305 Framework for that data year.

306 Regulators wish to avoid having insurers scoped in and out of  
307 the NAIC Liquidity Stress Test Framework on a frequent basis. The  
308 Commissioner of Insurance, in consultation with the Financial  
309 Stability Task Force or its successor, will assess this concern as  
310 part of the determination for an insurer.

311 (ii) The performance of, and filing of the results  
312 from, a specific year's Liquidity Stress Test shall comply with  
313 the NAIC Liquidity Stress Test Framework's instructions and  
314 reporting templates for that year and any Commissioner of  
315 Insurance determinations, in consultation with the Financial



316     Stability Task Force or its successor, provided within the  
317     Framework.

318         (6)    **Violations.**    The failure to file a registration  
319     statement or any summary of the registration state or enterprise  
320     risk filing required by this section within the time specified for  
321     filng shall be a violation of this section.

322         **SECTION 4.**    Section 83-6-7, Mississippi Code of 1972, is  
323     amended as follows:

324         83-6-7.    No information need be disclosed on the registration  
325     statement filed pursuant to Section 83-6-5 if such information is  
326     not material for the purposes of Sections 83-6-3 through 83-6-19.  
327     Unless the commissioner by rule, regulation or order provides  
328     otherwise, sales, purchases, exchanges, loans or extensions of  
329     credit or investments involving one-half of one percent (1/2 of  
330     1%) or less of an insurer's admitted assets as of the thirty-first  
331     day of December next preceding are not to be deemed material for  
332     purposes of Sections 83-6-3 through 83-6-19.    The definition of  
333     materiality provided in this section shall not apply for purposes  
334     of the Group Capital Calculation or the Liquidity Stress Test  
335     Framework.

336         **SECTION 5.**    Section 83-6-21, Mississippi Code of 1972, is  
337     amended as follows:

338         83-6-21.    (1)    Transactions within a holding company system  
339     to which an insurer subject to registration is a party shall be  
340     subject to the following standards:



341 (a) The terms shall be fair and reasonable;

342 (b) Agreements for cost-sharing services and management

343 shall include such provisions as required by rule and regulation

344 issued by the commissioner;

345 (c) Charges or fees for services performed shall be

346 reasonable;

347 (d) Expenses incurred and payment received shall be

348 allocated to the insurer in conformity with customary insurance

349 accounting practices consistently applied;

350 (e) The books, accounts and records of each party to

351 all such transactions shall be so maintained as to clearly and

352 accurately disclose the nature and details of the transactions

353 including such accounting information as is necessary to support

354 the reasonableness of the charges or fees to the respective

355 parties; \* \* \*

356 (f) The insurer's surplus as regards policyholders

357 following any dividends or distributions to shareholder affiliates

358 shall be reasonable in relation to the insurer's outstanding

359 liabilities and adequate to its financial needs \* \* \*;

360 (g) If an insurer subject to the act is deemed by the

361 commissioner to be in a hazardous financial condition as defined

362 by 19 Miss. Admin. Code, Part 1, Chapter 39: Define Standards and

363 Commissioner's Authority for Companies Deemed to be in Hazardous

364 Financial Condition Regulation or a condition that would be

365 grounds for supervision, conservation or delinquency proceeding,



366 then the commissioner may require the insurer to secure and  
367 maintain either a deposit, held by the commissioner, or a bond, as  
368 determined by the insurer at the insurer's discretion, for the  
369 protection of the insurer for the duration of the contract(s) or  
370 agreement(s), or the existence of the condition for which the  
371 commissioner required the deposit or the bond.

372 In determining whether a deposit or a bond is required, the  
373 commissioner should consider whether concerns exist with respect  
374 to the affiliated person's ability to fulfill the contract(s) or  
375 agreement(s) if the insurer were to be put into liquidation. Once  
376 the insurer is deemed to be in a hazardous financial condition or  
377 a condition that would be grounds for supervision, conservation or  
378 a delinquency proceeding, and a deposit or bond is necessary, the  
379 commissioner has discretion to determine the amount of the deposit  
380 or bond, not to exceed the value of the contract(s) or  
381 agreement(s) in any one (1) year, and whether such deposit or bond  
382 should be required for a single contract, multiple contracts or a  
383 contract only with a specific person(s);

384 (h) All records and data of the insurer held by an  
385 affiliate are and remain the property of the insurer, are subject  
386 to control of the insurer, are identifiable, and are segregated or  
387 readily capable of segregation, at no additional cost to the  
388 insurer, from all other persons' records and data. This includes  
389 all records and data that are otherwise the property of the  
390 insurer, in whatever form maintained, including, but not limited



391 to, claims and claim files, policyholder lists, application files,  
392 litigation files, premium records, rate books, underwriting  
393 manuals, personnel records, financial records or similar records  
394 within the possession, custody or control of the affiliate. At  
395 the request of the insurer, the affiliate shall provide that the  
396 receiver can obtain a complete set of all records of any type that  
397 pertain to the insurer's business; obtain access to the operating  
398 systems on which the data is maintained; obtain the software that  
399 runs those systems either through assumption of licensing  
400 agreements or otherwise; and restrict the use of the data by the  
401 affiliate if it is not operating the insurer's business. The  
402 affiliate shall provide a waiver of any landlord lien or other  
403 encumbrance to give the insurer access to all records and data in  
404 the event of the affiliate's default under a lease or other  
405 agreement; and

406 (i) Premiums or other funds belonging to the insurer  
407 that are collected by or held by an affiliate are the exclusive  
408 property of the insurer and are subject to the control of the  
409 insurer. Any right of offset in the event an insurer is placed  
410 into receivership shall be subject to the Insurers Rehabilitation  
411 and Liquidation Act, Sections 83-24-1 through 83-24-119.

412 (2) The following transactions involving a domestic insurer  
413 and any person in its holding company system, including amendments  
414 or modifications of affiliate agreements previously filed pursuant  
415 to this section, which are subject to any materiality standards



416 contained in paragraphs (a) through (i) of this subsection, shall  
417 not be entered into unless the insurer has notified the  
418 commissioner in writing of its intention to enter into such  
419 transaction at least thirty (30) days prior thereto, or such  
420 shorter period as the commissioner may permit, and the  
421 commissioner has not disapproved it within such period. The  
422 notice for amendments or modifications shall include the reasons  
423 for the change and the financial impact on the domestic insurer.  
424 Informal notice shall be reported within thirty (30) days after a  
425 termination of a previously filed agreement to the commissioner  
426 for determination of the type of filing required, if any.

427 (a) Sales, purchases, exchanges, loans or extension of  
428 credit, guarantees or investments provided such transactions are  
429 equal to or exceed: (i) with respect to nonlife insurers, the  
430 lesser of three percent (3%) of the insurer's admitted assets or  
431 twenty-five percent (25%) of surplus as regards policyholders; and  
432 (ii) with respect to life insurers, three percent (3%) of the  
433 insurer's admitted assets; each as of December 31 next preceding:

434 (b) Loans or extensions of credit to any person who is  
435 not an affiliate, where the insurer makes such loans or extension  
436 of credit with the agreement or understanding that the proceeds of  
437 such transactions, in whole or in substantial part, are to be used  
438 to make loans or extensions of credit to, to purchase assets of or  
439 to make investments in, any affiliate of the insurer making such  
440 loans or extensions of credit provided such transactions are equal



441 to or exceed: (i) with respect to nonlife insurers, the lesser of  
442 three percent (3%) of the insurer's admitted assets or twenty-five  
443 percent (25%) of surplus as regards policyholders; and (ii) with  
444 respect to life insurers, three percent (3%) of the insurer's  
445 admitted assets; each as of December 31 next preceding;

446 (c) Reinsurance agreements or modifications thereto,  
447 including (i) all reinsurance pooling agreements; and (ii)  
448 agreements in which the reinsurance premium or a change in the  
449 insurer's liabilities equals or exceeds five percent (5%) of the  
450 insurer's surplus as regards policyholders, as of December 31 next  
451 preceding, including those agreements which may require as  
452 consideration the transfer of assets from an insurer to a  
453 nonaffiliate, if an agreement or understanding exists between the  
454 insurer and nonaffiliate that any portion of such assets will be  
455 transferred to one or more affiliates of the insurer;

456 (d) All management agreements that would place control  
457 of the insurer outside of the insurance holding company system;

458 (e) All service contracts or cost-sharing arrangements  
459 wherein the annual aggregate cost to the insurer would equal or  
460 exceed the amounts specified in paragraph (a) of this subsection;

461 (f) All tax allocation agreements;

462 (g) Guarantees when made by a domestic insurer;  
463 provided, however, that a guarantee which is quantifiable as to  
464 amount is not subject to the notice requirements of this paragraph  
465 unless it exceeds the lesser of one-half of one percent (.5%) of



466 the insurer's admitted assets or ten percent (10%) of surplus as  
467 regards policyholders as of December 31 next preceding. Further,  
468 all guarantees which are not quantifiable as to amounts are  
469 subject to the notice requirements of this paragraph;

470 (h) Direct or indirect acquisitions or investments in a  
471 person that controls the insurer or in an affiliate of the insurer  
472 in an amount which, together with its present holdings in such  
473 investments, exceeds two and one-half percent (2.5%) of the  
474 insurer's surplus as to policyholders. Direct or indirect  
475 acquisitions or investments in subsidiaries acquired pursuant to  
476 Section 83-6-2, or in nonsubsidiary insurance affiliates that are  
477 subject to the provisions of this chapter, are exempt from this  
478 requirement; and

479 (i) Any material transactions, specified by regulation,  
480 which the commissioner determines may adversely affect the  
481 interests of the insurer's policyholders.

482 Nothing in this subsection (2) shall be determined to  
483 authorize or permit any transactions which, in the case of an  
484 insurer not a member of the same insurance holding company system,  
485 would be otherwise contrary to law.

486 (3) A domestic insurer shall not enter into transactions  
487 which are part of a plan or series of like transactions with  
488 persons within the holding company system if the purpose of those  
489 separate transactions is to avoid the statutory threshold amount  
490 and avoid the review that would occur otherwise. If the



491 commissioner determines that such separate transactions were  
492 entered into over any twelve-month period for such purpose, he may  
493 exercise his authority under Section 83-6-35.

494 (4) The commissioner, in reviewing transactions pursuant to  
495 subsection (2) of this section, shall consider whether the  
496 transactions comply with the standards set forth in subsection (1)  
497 of this section and whether they may adversely affect the  
498 interests of policyholders.

499 (5) The commissioner shall be notified within thirty (30)  
500 days of any investment of the domestic insurer in any one (1)  
501 corporation if the total investment in such corporation by the  
502 insurance holding company system exceeds ten percent (10%) of such  
503 corporation's voting securities.

504 (6) Insurance companies within a holding company system  
505 shall not sell or exchange their stock among each other unless the  
506 companies have obtained stock company permits before conducting  
507 such transactions.

508 (7) Dividends and other distributions. No domestic insurer  
509 shall pay any extraordinary dividend or make any other  
510 extraordinary distribution to its shareholders until thirty (30)  
511 days after the commissioner has received notice of the declaration  
512 thereof and has not within that period disapproved the payment, or  
513 until the commissioner has approved the payment within the  
514 thirty-day period. For purposes of this subsection, an  
515 extraordinary dividend or distribution includes any dividend or

516 distribution of cash or other property, whose fair market value  
517 together with that of other dividends or distributions made within  
518 the preceding twelve (12) months exceeds the lesser of:

519 (a) Ten percent (10%) of the insurer's surplus as  
520 regards policyholders as of the 31st day of December next  
521 preceding; or

522 (b) The net gain from operations of the insurer, if the  
523 insurer is a life insurer, or the net income, if the insurer is  
524 not a life insurer, not including realized capital gains, for the  
525 twelve-month period ending the 31st day of December next  
526 preceding, but shall not include pro rata distributions of any  
527 class of the insurer's own securities.

528 In determining whether a dividend or distribution is  
529 extraordinary, an insurer other than a life insurer may carry  
530 forward net income from the previous two (2) calendar years that  
531 has not already been paid out as dividends. This carry-forward  
532 shall be computed by taking the net income from the second and  
533 third preceding calendar years, not including realized capital  
534 gains, less dividends paid in the second and immediate preceding  
535 calendar years. Notwithstanding any other provision of law, an  
536 insurer may declare an extraordinary dividend or distribution  
537 which is conditional upon the commissioner's approval, and the  
538 declaration shall confer no rights upon shareholders until the  
539 commissioner has approved the payment of the dividend or



540 distribution, or the commissioner has not disapproved payment  
541 within the thirty-day period referred to above.

542 (8) Supervision, seizure, conservatorship or receivership  
543 proceedings. Any affiliate that is a party to an agreement or  
544 contract with a domestic insurer that is subject to subsection  
545 (2) (d) of this section shall be subject to the jurisdiction of any  
546 supervision, seizure, conservatorship or receivership proceedings  
547 against the insurer and to the authority of any supervisor,  
548 conservator, rehabilitator or liquidator for the insurer appointed  
549 pursuant to supervision and receivership acts for the purpose of  
550 interpreting, enforcing and overseeing the affiliate's obligations  
551 under the agreement or contract to perform services for the  
552 insurer that:

553 (a) Are an integral part of the insurer's operations,  
554 including, but not limited to, management, administrative,  
555 accounting, data processing, marketing, underwriting, claims  
556 handling, investment or any other similar functions; or

557 (b) The commissioner may require that an agreement or  
558 contract pursuant to subsection (2) (d) of this section for the  
559 provision of services described in (i) and (ii) above specify that  
560 the affiliate consents to the jurisdiction as set forth in this  
561 subsection (8).

562 **SECTION 6.** Section 83-6-29, Mississippi Code of 1972, is  
563 amended as follows:

564        83-6-29. (1) Documents, materials or other information in  
565 the possession or control of the Department of Insurance that are  
566 obtained by or disclosed to the commissioner or any other person  
567 during an examination or investigation made pursuant to Section  
568 83-6-27 and all information reported pursuant to Sections  
569 83-6-24(2)(1) and (m), 83-6-3, 83-6-5 and 83-6-21 shall be  
570 confidential by law and privileged, shall not be subject to the  
571 Mississippi Public Records Act, shall not be subject to subpoena,  
572 and shall not be subject to discovery or admissible in evidence in  
573 any private civil action. However, the commissioner is authorized  
574 to use the documents, materials or other information in the  
575 furtherance of any regulatory or legal action brought as a part of  
576 the commissioner's official duties. The commissioner shall not  
577 otherwise make the documents, materials or other information  
578 public without the prior written consent of the insurer to which  
579 it pertains unless the commissioner, after giving the insurer and  
580 its affiliates who would be affected thereby notice and  
581 opportunity to be heard, determines that the interest of  
582 policyholders, shareholders or the public will be served by the  
583 publication thereof, in which event the commissioner may publish  
584 all or any part in such manner as may be deemed appropriate.

585        (a) For purposes of the information reported and  
586 provided to the Department of Insurance pursuant to Section  
587 83-6-5(5)(b), the commissioner shall maintain the confidentiality  
588 of the group capital calculation and group capital ratio produced



589 within the calculation and any group capital information received  
590 from an insurance holding company supervised by the Federal  
591 Reserve Board or any non-U.S. group-wide supervisor.

592                   (b) For purposes of the information reported and  
593 provided to the Department of Insurance pursuant to Section  
594 83-6-5(5) (c), the commissioner shall maintain the confidentiality  
595 of the Liquidity Stress Test results and supporting disclosures  
596 and any liquidity stress test information received from an  
597 insurance holding company supervised by the Federal Reserve Board  
598 and non-U.S. group-wide supervisors.

599                   (2) Neither the commissioner nor any person who received  
600 documents, materials or other information while acting under the  
601 authority of the commissioner or with whom such documents,  
602 materials or other information are shared pursuant to this section  
603 shall be permitted or required to testify in any private civil  
604 action concerning any confidential documents, materials or  
605 information subject to subsection (1) of this section.

606                   (3) In order to assist in the performance of the  
607 commissioner's duties, the commissioner:

608                   (a) May share documents, materials or other  
609 information, including the confidential and privileged documents,  
610 materials or information subject to subsection (1) of this  
611 section, with other state, federal and international regulatory  
612 agencies, with the National Association of Insurance Commissioners  
613 (NAIC) and its affiliates and subsidiaries, and with state,



614 federal and international law enforcement authorities, provided  
615 that the recipient agrees in writing to maintain the  
616 confidentiality and privileged status of the document, material or  
617 other information, and has verified in writing the legal authority  
618 to maintain confidentiality.

619 (b) Notwithstanding paragraph (a) of this subsection,  
620 the commissioner may only share confidential and privileged  
621 documents, material or information reported pursuant to Section  
622 83-6-5(5) with commissioners of states having statutes or  
623 regulations substantially similar to subsection (1) of this  
624 section and who have agreed in writing not to disclose such  
625 information.

626 (c) May receive documents, materials or information,  
627 including otherwise confidential and privileged documents,  
628 materials or information from the NAIC and its affiliates and  
629 subsidiaries and from regulatory and law enforcement officials of  
630 other foreign or domestic jurisdictions, and shall maintain as  
631 confidential or privileged any document, material or information  
632 received with notice or the understanding that it is confidential  
633 or privileged under the laws of the jurisdiction that is the  
634 source of the document, material or information.

635 (d) Shall enter into written agreements with the NAIC  
636 governing sharing and use of information provided pursuant to this  
637 section consistent with this subsection that shall:

638 (i) Specify procedures and protocols regarding the  
639 confidentiality and security of information shared with the NAIC  
640 and its affiliates and subsidiaries pursuant to this section,  
641 including procedures and protocols for sharing by the NAIC with  
642 other state, federal or international regulators;

643 (ii) Specify that ownership of information shared  
644 with the NAIC and its affiliates and subsidiaries pursuant to this  
645 section remains with the commissioner and the NAIC's use of the  
646 information is subject to the direction of the commissioner;

651 (iv) Require the NAIC and its affiliates and  
652 subsidiaries to consent to intervention by an insurer in any  
653 judicial or administrative action in which the NAIC and its  
654 affiliates and subsidiaries may be required to disclose  
655 confidential information about the insurer shared with the NAIC  
656 and its affiliates and subsidiaries pursuant to this section.

657 (4) The sharing of information by the commissioner pursuant  
658 to this section shall not constitute a delegation of regulatory  
659 authority or rulemaking, and the commissioner is solely  
660 responsible for the administration, execution and enforcement of  
661 the provisions of this section.



662 (5) No waiver of any applicable privilege or claim of  
663 confidentiality in the documents, materials or information shall  
664 occur as a result of disclosure to the commissioner under this  
665 section or as a result of sharing as authorized in subsection (3)  
666 of this section.

667 (6) Documents, materials or other information in the  
668 possession or control of the NAIC pursuant to this section shall  
669 be confidential by law and privileged, shall not be subject to  
670 the Mississippi Public Records Act, shall not be subject to  
671 subpoena, and shall not be subject to discovery or admissible in  
672 evidence in any private civil action.

(7) The group capital calculations and resulting group capital ratio required under Section 83-6-5(b) and the Liquidity Stress Test along with its results and supporting disclosures required under Section 83-6-5(5)(c) are regulatory tools for assessing group risks and capital adequacy and group liquidity risks, respectively, and are not intended as a means to rank insurers or insurance holding company systems generally. Therefore, except as otherwise may be required under the provisions of this act, the making, publishing, disseminating, circulating or placing before the public, or causing directly or indirectly to be made, published, disseminating, circulating or placing before the public, or causing directly or indirectly to be made, published, disseminated, circulated or placed before the public in a newspaper, magazine or other publication, or in the



687 form of a notice, circular, pamphlet, letter or poster, or over  
688 any radio or television station or any electronic means of  
689 communication available to the public, or in any other way as an  
690 advertisement, announcement, or statement containing a  
691 representation or statement with regard to the group capital  
692 calculation, group capital ratio, the Liquidity Stress Test  
693 results, or supporting disclosures for the Liquidity Stress Test  
694 of any insurer or any insurer group, or of any component derived  
695 in the calculation by any insurer, broker, or other person engaged  
696 in any manner in the insurance business would be misleading and is  
697 therefore prohibited; provided, however, that if any materially  
698 false statement with respect to the group capital calculation,  
699 resulting group capital ratio, an inappropriate comparison of any  
700 amount to an insurer's or insurance group's group capital  
701 calculation or resulting group capital ratio, Liquidity Stress  
702 Test result, supporting disclosures for the Liquidity Stress Test,  
703 or an inappropriate comparison of any amount to an insurer's or  
704 insurance group's Liquidity Stress Test result or supporting  
705 disclosures is published in any written publication and the  
706 insurer is able to demonstrate to the commissioner with  
707 substantial proof the falsity of such statement or the  
708 inappropriateness, as the case may be, then the insurer may  
709 publish announcements in a written publication if the sole  
710 purposed of the announcement is to rebut the materially false  
711 statement.



712           **SECTION 7.** This act shall take effect and be in force from  
713 and after July 1, 2025.

