

conducted substantial insurance operations concentrated in the State. However, the Director could acknowledge that a regulatory official from another jurisdiction was the appropriate group-wide supervisor for the IAIG. The Director would have to consider all of the following factors when making a determination or acknowledge described above:

- The place of domicile of the insurers within the IAIG that held the largest share of the group's written premiums, assets, or liabilities.
- The place of domicile of the top-tiered insurer or insurers in the IAIG's insurance holding company system.
- The location of the IAIG's executive offices or largest operational offices.
- Whether another regulatory official acting or seeking to act as the group-wide supervisor provided the Director with reasonably reciprocal recognition and cooperation.

The Director also would have to consider whether another regulatory official was acting or was seeking to act as the group-wide supervisor under a regulatory system that the Director determined to be either of the following: a) substantially similar to the system of regulation provided under Michigan law, or b) otherwise sufficient in terms of providing for group-wide supervision, enterprise risk analysis, and cooperation with other regulatory officials.

A commissioner identified as the group-wide supervisor could determine that it was appropriate to acknowledge another supervisor to serve as the group-wide supervisor. The acknowledgement would have to be made in consideration of the factors described above, and would have to be made in cooperation with and subject to the acknowledgement of other regulatory officials involved with supervision of members of the IAIG, and in consultation with the IAIG.

Notwithstanding any other provision of law, if another regulatory official were acting as the group-wide supervisor of an IAIG, the Director would have to acknowledge that regulatory official as the group-wide supervisor. However, the Director would have to make a determination or acknowledgement as to the appropriate group-wide supervisor for the IAIG in the event of a material change in the IAIG group that resulted in either of the following:

- The IAIG's insurers domiciled in Michigan holding the largest share of the group's premiums, assets, or liabilities.
- Michigan being the place of domicile of the top-tiered insurer or insurers in the insurance holding company system of the IAIG.

Pursuant to Section 1351, the Director could collect from a registered insurer all information necessary to determine whether the Director could act as the group-wide supervisor of an IAIG or if the Director could acknowledge another regulatory official to act as the group-wide supervisor. Before issuing a determination that an IAIG group was subject to group-wide supervision by the Director, he or she would have to notify the insurer and the ultimate controlling person within the IAIG. The IAIG would have at least 30 days to provide the Director with additional information pursuant to the pending determination. The Director would have to publish on its website the identity of the IAIG that he or she had determined would be subject to group-wide supervision by the Director.

(Under Section 1351, subject to certain limitations and in addition to the powers the Director has under Chapters 2 (The Insurance Commissioner) and 4 (Authorization of Insurers and General Requirements) relating to the examination of insurers, the Director may order a registered insurer to produce records, books, or other information papers in the insurer's possession or its affiliates as are necessary to determine the insurer's financial condition.)

If the Director were the group-wide supervisor for the IAIG, he or she could engage in any of the following group-wide supervision activities:

- Assess the enterprise risks within the IAIG to ensure both of the following: a) that the material financial condition and liquidity risk to the members of the IAIG that were engaged in the business of insurance were identified by management, and b) that reasonable and effective mitigation measures were in place.
- Request, from any member of the IAIG subject to the Director's supervision, information necessary and appropriate to assess enterprise risk, including information about the members regarding any of the following: a) governance, risk assessment, and management; b) capital adequacy; and c) material intercompany transactions.
- Coordinate and, through the authority of regulatory officials of the jurisdictions where members of the IAIG were domiciled, compel development and implementation of reasonable measures designed to ensure that the IAIG was able to timely recognize and mitigate enterprise risks to members of the IAIG that were engaged in the business of insurance.
- Communicate with other state, Federal, and international regulatory agencies for members within the IAIG and share relevant information, subject to confidentiality provisions of Section 1355, through supervisory colleges as provided in Section 1357 or otherwise.
- Other group-wide supervision activities, consistent with the authorities and purposes provided in the bill, as the Director considered necessary.
- Enter into agreements with or obtain documentation from any registered insurer, any member of the IAIG, and any other state, Federal, and international regulatory agencies for members of the IAIG providing for the basis for or otherwise clarifying the Director's role as group-wide supervisor, including provisions for resolving disputes with other regulatory officials.

(Section 1355 specifies certain documents that are confidential and the Director may not disclose, and certain documents that he or she may share with other State, Federal, and international regulatory agencies, the National Association of Insurance Commissioners (NAIC), or state, Federal, or international law enforcement agencies. Section 1357 allows the Director to participate in a supervisory college for a domestic insurer that is party of an insurance holding company system with international operations to determine the insurer's financial condition, business strategy, risk management, risk exposures, governance processes, regulatory position, or legality of conduct.)

The agreements or documentation described above could not serve as evidence in any proceeding that any insurer or person within an insurance holding company system not domiciled or incorporated in the State was doing business in the State or was otherwise subject to jurisdiction in the State.

If the Director acknowledged that another regulatory official from another jurisdiction that was not accredited by the NAIC was the group-wide supervisor, the Director could reasonably cooperate, through supervisory colleges or otherwise, with group-wide supervision undertaken by the group-wide supervisor if both of the following applied:

- The Director's cooperation was in compliance with the law of the State.
- The regulatory official acknowledged as the group-wide supervisor also recognized and cooperated with the Director's activities as a group-wide supervisor for other IAIGs where applicable.

If recognition and cooperation were not reasonably reciprocal, the Director could refuse recognition and cooperation.

A registered insurer subject to the bill's provisions would be liable for and would have to pay the reasonable expenses of the Director's participation in the administration of these provisions, including the engagement of attorneys, actuaries, and any other professionals and all reasonable travel expenses.

MCL 500.1301 et al.

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bill would have no significant fiscal impact on the Department of Insurance and Financial Services and no fiscal impact on local governments. Although the bill would allow the Director of the Department to assume additional supervisory responsibilities for an eligible insurance group, it also would require the group to pay for reasonable expenses incurred by the Director in performing those responsibilities. In addition, other actions required by the bill would be covered by existing appropriations.

Fiscal Analyst: Elizabeth Raczkowski

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.