

CERTIFICATION OF ENROLLMENT

SENATE BILL 6027

68th Legislature
2024 Regular Session

Passed by the Senate February 7, 2024
Yeas 48 Nays 0

President of the Senate

Passed by the House February 27, 2024
Yeas 95 Nays 0

**Speaker of the House of
Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 6027** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE BILL 6027

Passed Legislature - 2024 Regular Session

State of Washington

68th Legislature

2024 Regular Session

By Senators Stanford, Kuderer, and Nobles; by request of Insurance Commissioner

Prefiled 01/05/24. Read first time 01/08/24. Referred to Committee on Business, Financial Services, Gaming & Trade.

1 AN ACT Relating to the insurer holding company act; and amending
2 RCW 48.31B.005, 48.31B.025, and 48.31B.038.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 48.31B.005 and 2020 c 243 s 1 are each amended to
5 read as follows:

6 The definitions in this section apply throughout this chapter
7 unless the context clearly requires otherwise.

8 (1) "Affiliate" means an affiliate of, or person affiliated with,
9 a specific person, and includes a person that directly, or indirectly
10 through one or more intermediaries, controls, or is controlled by, or
11 is under common control with, the person specified.

12 (2) "Commissioner" means the insurance commissioner, the
13 commissioner's deputies, or the office of the insurance commissioner,
14 as appropriate.

15 (3) "Control," including the terms "controlling," "controlled
16 by," and "under common control with," means the possession, direct or
17 indirect, of the power to direct or cause the direction of the
18 management and policies of a person, whether through the ownership of
19 voting securities, by contract other than a commercial contract for
20 goods or nonmanagement services, or otherwise, unless the power is
21 the result of an official position with or corporate office held by

1 the person. Control is presumed to exist if any person, directly or
2 indirectly, owns, controls, holds with the power to vote, or holds
3 proxies representing, ten percent or more of the voting securities of
4 any other person. This presumption may be rebutted by a showing made
5 in a manner similar to that provided by RCW 48.31B.025(11) that
6 control does not exist in fact. The commissioner may determine, after
7 furnishing all persons in interest notice and opportunity to be heard
8 and making specific findings of fact to support such determination,
9 that control exists in fact, notwithstanding the absence of a
10 presumption to that effect.

11 (4) "Enterprise risk" means any activity, circumstance, event, or
12 series of events involving one or more affiliates of an insurer that,
13 if not remedied promptly, is likely to have a material adverse effect
14 upon the financial condition or liquidity of the insurer or its
15 insurance holding company system as a whole including, but not
16 limited to, anything that would cause the insurer's risk-based
17 capital to fall into company action level as set forth in RCW
18 48.05.440 or 48.43.310 or would cause the insurer to be in hazardous
19 financial condition as defined in WAC 284-16-310.

20 (5) "Group capital calculation instructions" means the group
21 capital calculation instructions as adopted by the national
22 association of insurance commissioners and as amended by the national
23 association of insurance commissioners from time to time in
24 accordance with the procedures adopted by the national association of
25 insurance commissioners.

26 (6) "Group-wide supervisor" means the regulatory official
27 authorized to engage in conducting and coordinating group-wide
28 supervision activities who is determined or acknowledged by the
29 commissioner under RCW 48.31B.036 to have sufficient contacts with
30 the internationally active insurance group.

31 ((+6)) (7) "Insurance holding company system" means a system
32 that consists of two or more affiliated persons, one or more of which
33 is an insurer.

34 ((+7)) (8) "Insurer" includes an insurer authorized under
35 chapter 48.05 RCW, a fraternal mutual insurer or society holding a
36 license under RCW 48.36A.290, a health care service contractor
37 registered under chapter 48.44 RCW, a health maintenance organization
38 registered under chapter 48.46 RCW, and a self-funded multiple
39 employer welfare arrangement under chapter 48.125 RCW, as well as all
40 persons engaged as, or purporting to be engaged as insurers,

1 fraternal benefit societies, health care service contractors, health
2 maintenance organizations, or self-funded multiple employer welfare
3 arrangements in this state, and to persons in process of organization
4 to become insurers, fraternal benefit societies, health care service
5 contractors, health maintenance organizations, or self-funded
6 multiple employer welfare arrangements, except it does not include
7 agencies, authorities, or instrumentalities of the United States, its
8 possessions and territories, the commonwealth of Puerto Rico, the
9 District of Columbia, or a state or political subdivision of a state.

10 ~~((8))~~ (9) "Internationally active insurance group" means an
11 insurance holding company system that:

12 (a) Includes an insurer registered under RCW 48.31B.025; and

13 (b) Meets the following criteria:

14 (i) Premiums written in at least three countries;

15 (ii) The percentage of gross premiums written outside the United
16 States is at least ten percent of the insurance holding company
17 system's total gross written premiums; and

18 (iii) Based on a three-year rolling average, the total assets of
19 the insurance holding company system are at least fifty billion
20 dollars or the total gross written premiums of the insurance holding
21 company system are at least ten billion dollars.

22 ~~((9))~~ (10) "National association of insurance commissioners
23 liquidity stress test framework" means a separate national
24 association of insurance commissioners publication which includes a
25 history of the national association of insurance commissioners'
26 development of regulatory liquidity stress testing, the scope
27 criteria applicable for a specific data year, and the liquidity
28 stress test instructions and reporting templates for a specific data
29 year, such scope criteria, instructions, and reporting template being
30 as adopted by the national association of insurance commissioners and
31 as amended by the national association of insurance commissioners
32 from time to time in accordance with the procedures adopted by the
33 national association of insurance commissioners.

34 (11) "Person" means an individual, a corporation, a partnership,
35 an association, a joint stock company, a trust, an unincorporated
36 organization, any similar entity, or any combination of the foregoing
37 acting in concert, but does not include a joint venture partnership
38 exclusively engaged in owning, managing, leasing, or developing real
39 or tangible personal property.

1 ~~((10))~~ (12) "Scope criteria" means the designated exposure
2 bases along with minimum magnitudes thereof for the specified data
3 year, used to establish a preliminary list of insurers considered
4 scoped into the national association of insurance commissioners
5 liquidity stress test framework for that data year.

6 (13) "Securityholder" means a securityholder of a specified
7 person who owns any security of that person, including common stock,
8 preferred stock, debt obligations, and any other security convertible
9 into or evidencing the right to acquire any of the foregoing.

10 ~~((11))~~ (14) "Subsidiary" means a subsidiary of a specified
11 person who is an affiliate controlled by that person directly or
12 indirectly through one or more intermediaries.

13 ~~((12))~~ (15) "Voting security" includes any security convertible
14 into or evidencing a right to acquire a voting security.

15 **Sec. 2.** RCW 48.31B.025 and 2015 c 122 s 5 are each amended to
16 read as follows:

17 (1) Every insurer that is authorized to do business in this state
18 and is a member of an insurance holding company system shall register
19 with the commissioner, except a foreign insurer subject to
20 registration requirements and standards adopted by statute or
21 regulation in the jurisdiction of its domicile that are substantially
22 similar to those contained in:

23 (a) This section;

24 (b) RCW 48.31B.030 (1)(a), (2), and (3); and

25 (c) Either RCW 48.31B.030(1)(b) or a provision such as the
26 following: Each registered insurer shall keep current the information
27 required to be disclosed in its registration statement by reporting
28 all material changes or additions within fifteen days after the end
29 of the month in which it learns of each change or addition.

30 Any insurer which is subject to registration under this section
31 shall register within fifteen days after it becomes subject to
32 registration, and annually thereafter by May 1st of each year for the
33 previous calendar year, unless the commissioner for good cause shown
34 extends the time for registration, and then within the extended time.
35 The commissioner may require any insurer authorized to do business in
36 the state that is a member of a holding company system, and which is
37 not subject to registration under this section, to furnish a copy of
38 the registration statement, the summary specified in subsection (3)
39 of this section, or other information filed by the insurance company

1 with the insurance regulatory authority of its domiciliary
2 jurisdiction.

3 (2) Every insurer subject to registration shall file the
4 registration statement on a form and in a format prescribed by the
5 national association of insurance commissioners, containing the
6 following current information:

7 (a) The capital structure, general financial condition,
8 ownership, and management of the insurer and any person controlling
9 the insurer;

10 (b) The identity and relationship of every member of the
11 insurance holding company system;

12 (c) The following agreements in force, and transactions currently
13 outstanding or that have occurred during the last calendar year
14 between the insurer and its affiliates:

15 (i) Loans, other investments, or purchases, sales, or exchanges
16 of securities of the affiliates by the insurer or of the insurer by
17 its affiliates;

18 (ii) Purchases, sales, or exchange of assets;

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

20 (iv) Guarantees or undertakings for the benefit of an affiliate
21 that result in an actual contingent exposure of the insurer's assets
22 to liability, other than insurance contracts entered into in the
23 ordinary course of the insurer's business;

24 (v) All management agreements, service contracts, and cost-
25 sharing arrangements;

26 (vi) Reinsurance agreements;

27 (vii) Dividends and other distributions to shareholders; and

28 (viii) Consolidated tax allocation agreements;

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

32 (e) If requested by the commissioner, the insurer must include
33 financial statements of or within an insurance holding company
34 system, including all affiliates. Financial statements may include
35 but are not limited to annual audited financial statements filed with
36 the United States securities and exchange commission pursuant to the
37 securities act of 1933, as amended, or the securities exchange act of
38 1934, as amended. An insurer required to file financial statements
39 pursuant to this subsection (2)(e) may satisfy the request by
40 providing the commissioner with the most recently filed parent

1 corporation financial statements that have been filed with the United
2 States securities and exchange commission;

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

6 (g) Statements that the insurer's board of directors oversees
7 corporate governance and internal controls and that the insurer's
8 officers or senior management have approved, implemented, and
9 continue to maintain and monitor corporate governance and internal
10 control procedures; and

11 (h) Any other information required by the commissioner by rule.

12 (3) All registration statements must contain a summary outlining
13 all items in the current registration statement representing changes
14 from the prior registration statement.

15 (4) No information need be disclosed on the registration
16 statement filed under subsection (2) of this section if the
17 information is not material for the purposes of this section. Unless
18 the commissioner by rule or order provides otherwise, sales,
19 purchases, exchanges, loans or extensions of credit, investments, or
20 guarantees involving one-half of one percent or less of an insurer's
21 admitted assets as of December 31st next preceding are not deemed
22 material for purposes of this section. The definition of materiality
23 provided in this subsection shall not apply for purposes of the group
24 capital calculation or the liquidity stress test framework.

25 (5) Subject to RCW 48.31B.030(2), each registered insurer shall
26 report to the commissioner all dividends and other distributions to
27 shareholders within fifteen business days after their declaration.

28 (6) Any person within an insurance holding company system subject
29 to registration is required to provide complete and accurate
30 information to an insurer, where the information is reasonably
31 necessary to enable the insurer to comply with this chapter.

32 (7) The commissioner shall terminate the registration of an
33 insurer that demonstrates that it no longer is a member of an
34 insurance holding company system.

35 (8) The commissioner may require or allow two or more affiliated
36 insurers subject to registration under this section to file a
37 consolidated registration statement.

38 (9) The commissioner may allow an insurer authorized to do
39 business in this state and which is part of an insurance holding
40 company system to register on behalf of an affiliated insurer which

1 is required to register under subsection (1) of this section and to
2 file all information and material required to be filed under this
3 section.

4 (10) This section does not apply to an insurer, information, or
5 transaction if and to the extent that the commissioner by rule or
6 order exempts the insurer, information, or transaction from this
7 section.

8 (11) Any person may file with the commissioner a disclaimer of
9 affiliation with any authorized insurer, or any insurer or any member
10 of an insurance holding company system may file the disclaimer. The
11 disclaimer must fully disclose all material relationships and bases
12 for affiliation between the person and the insurer as well as the
13 basis for disclaiming the affiliation. A disclaimer of affiliation is
14 deemed to have been granted unless the commissioner, within thirty
15 days following receipt of a complete disclaimer, notifies the filing
16 party the disclaimer is disallowed. In the event of disallowance, the
17 disclaiming party may request an administrative hearing, which shall
18 be granted. The disclaiming party is relieved of its duty to register
19 under this section if approval of the disclaimer has been granted by
20 the commissioner, or if the disclaimer is deemed to have been
21 approved.

22 (12) The ultimate controlling person of every insurer subject to
23 registration shall also file an annual enterprise risk report. The
24 report must, to the best of the ultimate controlling person's
25 knowledge and belief, identify the material risks within the
26 insurance holding company system that could pose enterprise risk to
27 the insurer. The report must be filed with the lead state
28 commissioner of the insurance holding company system as determined by
29 the procedures within the financial analysis handbook adopted by the
30 national association of insurance commissioners.

31 (13)(a) The ultimate controlling person of every insurer subject
32 to registration shall concurrently file with the registration an
33 annual group capital calculation as directed by the lead state
34 commissioner. The report shall be completed in accordance with the
35 national association of insurance commissioners group capital
36 calculation instructions, which may permit the lead state
37 commissioner to allow a controlling person that is not the ultimate
38 controlling person to file the group capital calculation. The report
39 shall be filed with the lead state commissioner of the insurance
40 holding company system as determined by the commissioner in

1 accordance with the procedures within the financial analysis handbook
2 adopted by the national association of insurance commissioners.
3 Insurance holding company systems described below are exempt from
4 filing the group capital calculation:

5 (i) An insurance holding company system that has only one insurer
6 within its holding company structure, that only writes business and
7 is only licensed in its domestic state, and assumes no business from
8 any other insurer;

9 (ii) An insurance holding company system that is required to
10 perform a group capital calculation specified by the United States
11 federal reserve board. The lead state commissioner shall request the
12 calculation from the federal reserve board under the terms of
13 information sharing agreements in effect. If the federal reserve
14 board cannot share the calculation with the lead state commissioner,
15 the insurance holding company system is not exempt from the group
16 capital calculation filing;

17 (iii) An insurance holding company system whose non-United States
18 group-wide supervisor is located within a reciprocal jurisdiction as
19 described in RCW 48.12.462 that recognizes the United States state
20 regulatory approach to group supervision and group capital;

21 (iv) An insurance holding company system:

22 (A) That provides information to the lead state that meets the
23 requirements for accreditation under the national association of
24 insurance commissioners financial standards and accreditation
25 program, either directly or indirectly through the group-wide
26 supervisor, who has determined such information is satisfactory to
27 allow the lead state to comply with the national association of
28 insurance commissioners group supervision approach, as detailed in
29 the national association of insurance commissioners financial
30 analysis handbook; and

31 (B) Whose non-United States group-wide supervisor that is not in
32 a reciprocal jurisdiction recognizes and accepts, as specified by the
33 commissioner in rule, the group capital calculation as the worldwide
34 group capital assessment for United States insurance groups who
35 operate in that jurisdiction.

36 (b) Notwithstanding the provisions of (a) (iii) and (iv) of this
37 subsection, the lead state commissioner shall require the group
38 capital calculation for United States operations of any non-United
39 States based insurance holding company system where, after any
40 necessary consultation with other supervisors or officials, it is

1 deemed appropriate by the lead state commissioner for prudential
2 oversight and solvency monitoring purposes or for ensuring the
3 competitiveness of the insurance marketplace.

4 (c) Notwithstanding the exemptions from filing the group capital
5 calculation stated in (a) of this subsection, the lead state
6 commissioner has the discretion to exempt the ultimate controlling
7 person from filing the annual group capital calculation or to accept
8 a limited group capital filing or report in accordance with criteria
9 as specified by the commissioner in regulation.

10 (d) If the lead state commissioner determines that an insurance
11 holding company system no longer meets one or more of the
12 requirements for an exemption from filing the group capital
13 calculation under this section, the insurance holding company system
14 shall file the group capital calculation at the next annual filing
15 date unless given an extension by the lead state commissioner based
16 on reasonable grounds shown.

17 (14) The ultimate controlling person of every insurer subject to
18 registration and also scoped into the national association of
19 insurance commissioners liquidity stress test framework shall file
20 the results of a specific year's liquidity stress test. The filing
21 shall be made to the lead state commissioner of the insurance holding
22 company system as determined by the procedures within the financial
23 analysis handbook adopted by the national association of insurance
24 commissioners.

25 (a) The national association of insurance commissioners liquidity
26 stress test framework must include scope criteria applicable to a
27 specific data year. These scope criteria must be reviewed at least
28 annually by the financial stability task force or its successor. Any
29 change to the national association of insurance commissioners
30 liquidity stress test framework or to the data year for which the
31 scope criteria are to be measured shall be effective on January 1st
32 of the year following the calendar year when such changes are
33 adopted. Insurers meeting at least one threshold of the scope
34 criteria are considered scoped into the national association of
35 insurance commissioners liquidity stress test framework for the
36 specified data year unless the lead state commissioner, in
37 consultation with the national association of insurance commissioners
38 financial stability task force or its successor, determines the
39 insurer should not be scoped into the framework for that data year.
40 Similarly, insurers that do not trigger at least one threshold of the

1 scope criteria are considered scoped out of the national association
2 of insurance commissioners liquidity stress test framework for the
3 specified data year, unless the lead state commissioner, in
4 consultation with the national association of insurance commissioners
5 financial stability task force or its successor, determines the
6 insurer should be scoped into the framework for that data year.

7 (b) The performance of, and filing of the results from, a
8 specific year's liquidity stress test shall comply with the national
9 association of insurance commissioners liquidity stress test
10 framework's instructions and reporting templates for that year and
11 any lead state commissioner determinations, in consultation with the
12 financial stability task force or its successor, provided within the
13 framework.

14 (15) The failure to file a registration statement or any summary
15 of the registration statement or enterprise risk filing required by
16 this section within the time specified for filing is a violation of
17 this section.

18 **Sec. 3.** RCW 48.31B.038 and 2020 c 243 s 2 are each amended to
19 read as follows:

20 (1) Documents, materials, or other information in the possession
21 or control of the commissioner that are obtained by or disclosed to
22 the commissioner or any other person in the course of an examination
23 or investigation made pursuant to RCW 48.31B.035 and all information
24 reported or provided to the commissioner under RCW 48.31B.015(2) (l)
25 and (m), 48.31B.025, 48.31B.030, and 48.31B.036 are recognized by
26 this state as being proprietary and to contain trade secrets, and are
27 confidential by law and privileged, are not subject to chapter 42.56
28 RCW, are not subject to subpoena, and are not subject to discovery or
29 admissible in evidence in any private civil action. However, the
30 commissioner is authorized to use the documents, materials, or other
31 information in the furtherance of any regulatory or legal action
32 brought as a part of the commissioner's official duties. The
33 commissioner shall not otherwise make the documents, materials, or
34 other information public without the prior written consent of the
35 insurer to which it pertains unless the commissioner, after giving
36 the insurer and its affiliates who would be affected thereby, notice
37 and opportunity to be heard, determines that the interest of
38 policyholders, shareholders, or the public is served by the

1 publication thereof, in which event the commissioner may publish all
2 or any part in such manner as may be deemed appropriate.

3 (a) For purposes of the information reported and provided to the
4 commissioner pursuant to RCW 48.31B.025(13), the commissioner shall
5 maintain the confidentiality of the group capital calculation and
6 group capital ratio produced within the calculation and any group
7 capital information received from an insurance holding company
8 supervised by the federal reserve board or any United States group-
9 wide supervisor.

10 (b) For purposes of the information reported and provided to the
11 commissioner pursuant to RCW 48.31B.025(14), the commissioner shall
12 maintain the confidentiality of the liquidity stress test results and
13 supporting disclosures and any liquidity stress test information
14 received from an insurance holding company supervised by the federal
15 reserve board and non-United States group-wide supervisors.

16 (2) Neither the commissioner nor any person who received
17 documents, materials, or other information while acting under the
18 authority of the commissioner or with whom such documents, materials,
19 or other information are shared pursuant to this chapter is permitted
20 or may be required to testify in any private civil action concerning
21 any confidential documents, materials, or information subject to
22 subsection (1) of this section.

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

25 (a) May share documents, materials, or other information,
26 including the confidential and privileged documents, materials, or
27 information subject to subsection (1) of this section, including
28 proprietary and trade secret documents and materials, with other
29 state, federal, and international regulatory agencies, with the
30 national association of insurance commissioners (~~and its affiliates~~
31 ~~and subsidiaries)), with any third-party consultants designated by~~
32 the commissioner, and with state, federal, and international law
33 enforcement authorities, including members of any supervisory college
34 described in RCW 48.31B.037, provided the recipient agrees in writing
35 to maintain the confidentiality and privileged status of the
36 document, material, or other information, and has verified in writing
37 the legal authority to maintain confidentiality;

38 (b) Notwithstanding (a) of this subsection, may only share
39 confidential and privileged documents, material, or information
40 reported pursuant to RCW 48.31B.025(12) with commissioners of states

1 having statutes or rules substantially similar to subsection (1) of
2 this section and who have agreed in writing not to disclose such
3 information;

4 (c) May receive documents, materials, or information, including
5 otherwise confidential and privileged documents, materials, or
6 information, including proprietary and trade secret information, from
7 the national association of insurance commissioners (~~and its~~
8 ~~affiliates and subsidiaries~~) or a third-party consultant designated
9 by the commissioner, and from regulatory and law enforcement
10 officials of other foreign or domestic jurisdictions, and shall
11 maintain as confidential or privileged any document, material, or
12 information received with notice or the understanding that it is
13 confidential or privileged under the laws of the jurisdiction that is
14 the source of the document, material, or information; and

15 (d) Shall enter into written agreements with the national
16 association of insurance commissioners and any third-party consultant
17 designated by the commissioner governing sharing and use of
18 information provided pursuant to this chapter consistent with this
19 subsection that shall:

20 (i) Specify procedures and protocols regarding the
21 confidentiality and security of information shared with the national
22 association of insurance commissioners (~~and its affiliates and~~
23 ~~subsidiaries~~) or a third-party consultant designated by the
24 commissioner pursuant to this chapter, including procedures and
25 protocols for sharing by the national association of insurance
26 commissioners with other state, federal, or international regulators.
27 The agreement shall provide that the recipient agrees in writing to
28 maintain the confidentiality and privileged status of the documents,
29 materials, or other information and has verified in writing the legal
30 authority to maintain such confidentiality;

31 (ii) Specify that ownership of information shared with the
32 national association of insurance commissioners (~~and its affiliates~~
33 ~~and subsidiaries~~) or a third-party consultant designated by the
34 commissioner pursuant to this chapter remains with the commissioner
35 and the national association of insurance commissioners' or third-
36 party consultant's use of the information is subject to the direction
37 of the commissioner;

38 (iii) Excluding documents, materials, or other information
39 reported pursuant to RCW 48.31B.025(14), prohibit the national
40 association of insurance commissioners or third-party consultant

1 designated by the commissioner from storing the information shared
2 pursuant to this act in a permanent database after the underlying
3 analysis is completed;

4 (iv) Require prompt notice to be given to an insurer whose
5 confidential information in the possession of the national
6 association of insurance commissioners or a third-party consultant
7 designated by the commissioner pursuant to this chapter is subject to
8 a request or subpoena to the national association of insurance
9 commissioners or a third-party consultant designated by the
10 commissioner for disclosure or production; (~~and~~

11 ~~(iv))~~ (v) Require the national association of insurance
12 commissioners (~~and its affiliates and subsidiaries~~) or a third-
13 party consultant designated by the commissioner to consent to
14 intervention by an insurer in any judicial or administrative action
15 in which the national association of insurance commissioners (~~and~~
16 ~~its affiliates and subsidiaries~~) or third-party consultant
17 designated by the commissioner may be required to disclose
18 confidential information about the insurer shared with the national
19 association of insurance commissioners (~~and its affiliates and~~
20 ~~subsidiaries~~) or a third-party consultant designated by the
21 commissioner pursuant to this chapter; and

22 (vi) For documents, materials, or other information reporting
23 pursuant to RCW 48.31B.025(14), in the case of an agreement involving
24 a third-party consultant, provide for notification of the identity of
25 the consultant to the applicable insurer.

26 (4) The sharing of information by the commissioner pursuant to
27 this chapter does not constitute a delegation of regulatory authority
28 or rule making, and the commissioner is solely responsible for the
29 administration, execution, and enforcement of this chapter.

30 (5) No waiver of any applicable privilege or claim of
31 confidentiality in the documents, materials, or information shall
32 occur as a result of disclosure to the commissioner under this
33 section or as a result of sharing as authorized in subsection (3) of
34 this section.

35 (6) Documents, materials, or other information in the possession
36 or control of the national association of insurance commissioners or
37 a third-party consultant designated by the commissioner pursuant to
38 this chapter are confidential by law and privileged, are not subject
39 to chapter 42.56 RCW, are not subject to subpoena, and are not

1 subject to discovery or admissible in evidence in any private civil
2 action.

3 (7) The group capital calculation and resulting group capital
4 ratio required under RCW 48.31B.025(13) and the liquidity stress test
5 along with its results and supporting disclosures required under RCW
6 48.318.025(14) are regulatory tools for assessing group risks and
7 capital adequacy and group liquidity risks, respectively, and are not
8 intended as a means to rank insurers or insurance holding company
9 systems generally. Therefore, except as otherwise may be required
10 under the provisions of this act, the making, publishing,
11 disseminating, circulating, or placing before the public, or causing
12 directly or indirectly to be made, published, disseminated,
13 circulated, or placed before the public in a newspaper, magazine, or
14 other publication, or in the form of a notice, circular, pamphlet,
15 letter, or poster, or over any radio or television station or any
16 electronic means of communication available to the public, or in any
17 other way as an advertisement, announcement, or statement containing
18 a representation or statement with regard to the group capital
19 calculation, group capital ratio, the liquidity stress test results,
20 or supporting disclosures for the liquidity stress test of any
21 insurer or any insurer group, or of any component derived in the
22 calculation by any insurer, broker, or other person engaged in any
23 manner in the insurance business would be misleading and is therefore
24 prohibited; provided, however, that if any materially false statement
25 with respect to the group capital calculation, resulting group
26 capital ratio, an inappropriate comparison of any amount to an
27 insurer's or insurance group's group capital calculation or resulting
28 group capital ratio, liquidity stress test result, supporting
29 disclosures for the liquidity stress test, or an inappropriate
30 comparison of any amount to an insurer's or insurance group's
31 liquidity stress test result or supporting disclosures is published
32 in any written publication and the insurer is able to demonstrate to
33 the commissioner with substantial proof the falsity of such statement
34 or the inappropriateness, as the case may be, then the insurer may
35 publish announcements in a written publication if the sole purpose of
36 the announcement is to rebut the materially false statement.

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