



# HOUSE BILL 219: NAIC Accreditation Amendments.

2019-2020 General Assembly

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<b>Committee:</b>		<b>Date:</b>	December 6, 2019
<b>Introduced by:</b>		<b>Prepared by:</b>	Kristen L. Harris Staff Attorney
<b>Analysis of:</b>	S.L. 2019-57		

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**OVERVIEW:** *S.L. 2019-57 enacts legislative changes to North Carolina's insurance laws to comply with the National Association of Insurance Commissioners (NAIC) and allow the North Carolina Department of Insurance (DOI) to maintain its NAIC accreditation.*

*Specifically, the act 1) clarifies the legal authority and power of the Commissioner of Insurance (COI) to engage in the group-wide supervision of an internationally active insurance group (IAIG), 2) requires insurers to establish an internal audit function that will evaluate the insurer's governance, risk management, and internal controls, and 3) enacts new legislation requiring insurers to disclose and file their corporate governance practices with the COI.*

*The section of the act pertaining to the internal audit function requirements becomes effective January 1, 2020, and will allow an insurer who no longer qualifies for an exemption, one calendar year after the year the exemption ends to comply with the internal audit function. The section of the act pertaining to a corporate governance annual disclosure becomes effective January 1, 2020, with the first filing of the CGAD to be made on or before June 1, 2020. Except as otherwise provided, the remainder of this act became effective June 26, 2019.*

**BACKGROUND:** The National Association of Insurance Commissioners is the U.S. standard-setting and regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia, and five U.S. territories. The formal certification program began in June 1990. North Carolina has been accredited since 1991. All fifty states, the District of Columbia, and Puerto Rico are currently accredited.

**CURRENT LAW:** Chapter 58 of the General Statutes governs North Carolina's insurance laws. Currently, the provisions in Chapter 58 meet NAIC requirements.

## **BILL ANALYSIS:**

**Part I** incorporates language from the NAIC's "Holding Company Model Act and Model Regulation Act" into Chapter 58 and authorizes the Commissioner of Insurance to engage in the group-wide supervision of an internationally active insurance group (IAIG).

**Sections 1(a) and (b)** defines "group-wide supervisor" and "internationally active insurance group".

**Section 1(c)** allows the Commissioner of Insurance (COI) to serve as the group-wide supervisor of an internationally active insurance group (IAIG) or acknowledge another regulatory official to serve as the supervisor under certain circumstances.

Karen Cochrane-Brown  
Director



Legislative Analysis  
Division  
919-733-2578

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- Authorizes the COI to collect data from the IAIG when determining who should serve as the group-wide supervisor.
- Allows the COI to acknowledge a regulatory official from a non-NAIC accredited jurisdiction as the group-wide supervisor of an IAIG if the COI's cooperation with the supervisor was in compliance with North Carolina law and the supervisor recognized and cooperated with the COI's activities as a supervisor for other IAIGs where applicable. If the recognition and cooperation were not reciprocated, the COI may refuse to acknowledge the regulatory official as the group-wide supervisor.

**Section 1(d)** makes data collected by the COI from an IAIG confidential.

**Part II** incorporates language from the NAIC's "Annual Financial Reporting Model Regulation" in Chapter 58 and requires insurers to maintain an internal audit function of their risk management, internal controls, and governance processes.

**Section 2(a)** adds an internal audit function to the types of reporting conducted by an audit committee.

**Section 2(b)** defines "internal audit function".

**Section 2(c)** adds the internal audit function to the requirements of an audit committee.

**Section 2(d)** establishes the requirements of an insurer's internal audit function. The internal audit function must be "organizationally independent" and report to the audit committee at least annually.

**Section 2(e)** makes the internal audit function requirements effective January 1, 2020, and allows an insurer who no longer qualifies for an exemption, one calendar year after the year the exemption ends to comply with the internal audit function.

**Part III** incorporates language from the NAIC's "Corporate Governance Annual Disclosure Model Act" and requires insurers to disclose and file their corporate governance practices.

**Section 3(a)** enacts new NAIC legislation to outline the requirements of completing a corporate governance annual disclosure (CGAD) with the Commissioner of Insurance (COI) and provides confidential treatment of the CGAD and related information.

- Defines terms used in the new legislation.
- Requires insurers to submit a CGAD to the COI by June 1<sup>st</sup> of each year. The insurer has discretion over the format of the CGAD and in determining at what corporate level to base its reporting. After an initial filing, each year an insurer will file an amended version of the previous CGAD noting any changes.
- Allows the insurer to have discretion over its responses, but allows the COI to request additional information.
- Requires the insurer to provide information describing its corporate governance framework and structure, policies and practices of its most senior governing entity, and significant committees, policies and practices for directing senior management, and processes by which the board of directors, its committees, and senior management ensure appropriate oversight to critical risk areas impacting business activities.
- Maintains the confidentiality of the CGAD and other related documents and materials when disclosed to the COI or other persons under the new legislation.

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- Allows the COI to retain third-party consultants, at the insurer's expense, to assist in reviewing the CGAD-related information.
- Allows an insurer to be penalized \$100.00 for each day's delay in failing to timely file a CGAD, not to exceed a total penalty of \$1,000. The COI has discretion to reduce the penalty if the insurer demonstrates that the penalty imposes a financial hardship.

**Section 3(b)** allows for the severability of any statute in the new legislation, with the exception of the confidentiality statute, if found invalid.

**Section 3(c)** Section 3 becomes effective January 1, 2020, with the first filing of the CGAD to be made on or before June 1, 2020.

**Part IV** makes other changes, as recommended by the Department of Insurance.

**Section 4** includes a "fraternal benefit society" in the definition of "company" under the Standard Valuation Law.

**Section 5** makes a technical and a clarifying change.

**EFFECTIVE DATE:** Except as otherwise provided, the remainder of this act became effective on June 26, 2019.