HOUSE BILL 219:
NAIC Accreditation Amendments.

2019-2020 General Assembly

Committee:	House Rules, Calendar, and Operations of the House	**Date:**	April 16, 2019
Introduced by:	Reps. Setzer, Bumgardner, Corbin	**Prepared by:**	Kristen L. Harris Committee Co-Counsel
Analysis of:	Second Edition		

OVERVIEW: House Bill 219 would enact 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, House Bill 219 would 1) clarify 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) require insurers to establish an internal audit function that would evaluate the insurer's governance, risk management, and internal controls, and 3) enact new legislation requiring insurers to disclose and file their corporate governance practices with the COI.

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:

<u>Part I</u> would incorporate language from the NAIC's "Holding Company Model Act and Model Regulation Act" into Chapter 58 and authorize the Commissioner of Insurance to engage in the group-wide supervision of an internationally active insurance group (IAIG).

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

Section 1(c) would allow 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.

- Would authorize the COI to collect data from the IAIG when determining who should serve as the group-wide supervisor.
- Would allow 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 could refuse to acknowledge the regulatory official as the group-wide supervisor.

Section 1(d) would make data collected by the COI from an IAIG confidential.

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

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

Section 2(b) would define "internal audit function".

Section 2(c) would add the internal audit function to the requirements of an audit committee.

Section 2(d) would establish 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) would make the internal audit function requirements effective January 1, 2020, and would 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.

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

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

- Would define terms used in the new legislation.
- Would require insurers to submit a CGAD to the COI by June 1st of each year. The insurer would have 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 would file an amended version of the previous CGAD noting any changes.
- Would allow the insurer to have discretion over its responses, but allow the COI to request additional information.
- Would require 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.
- Would maintain the confidentiality of the CGAD and other related documents and materials when disclosed to the COI or other persons under the new legislation.
- Would allow the COI to retain third-party consultants, at the insurer's expense, to assist in reviewing the CGAD-related information.
- Would allow 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 would have discretion to reduce the penalty if the insurer could demonstrate that the penalty would impose a financial hardship.

Section 3(b) would allow 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 would become effective January 1, 2020, with the first filing of the CGAD to be made on or before June 1, 2020.

Part IV would make other changes, as recommended by the Department of Insurance.

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

Section 5 would make a technical and a clarifying change.

EFFECTIVE DATE: Except as otherwise provided, the remainder of this act is effective when it becomes law.