

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 178

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
(MCL 500.100 to 500.8302) by adding chapter 17.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER 17

RISK MANAGEMENT AND OWN RISK AND SOLVENCY ASSESSMENT

SEC. 1701. AS USED IN THIS CHAPTER:

(A) "INSURANCE GROUP" MEANS, FOR THE PURPOSE OF CONDUCTING AN
ORSA, INSURERS AND AFFILIATES INCLUDED WITHIN AN INSURANCE HOLDING
COMPANY SYSTEM.

(B) "INSURER" MEANS THAT TERM AS DEFINED IN SECTION 106.
INSURER ALSO INCLUDES A FRATERNAL BENEFIT SOCIETY AS THAT TERM IS
DEFINED IN SECTION 8164 AND A NONPROFIT DENTAL CARE CORPORATION
OPERATING UNDER 1963 PA 125, MCL 550.351 TO 550.373. INSURER DOES

1 NOT INCLUDE AGENCIES, AUTHORITIES, OR INSTRUMENTALITIES OF THE
2 UNITED STATES, ITS POSSESSIONS AND TERRITORIES, THE COMMONWEALTH OF
3 PUERTO RICO, THE DISTRICT OF COLUMBIA, OR A STATE OR POLITICAL
4 SUBDIVISION OF A STATE.

5 (C) "NAIC" MEANS THE NATIONAL ASSOCIATION OF INSURANCE
6 COMMISSIONERS.

7 (D) "OWN RISK AND SOLVENCY ASSESSMENT" OR "ORSA" MEANS A
8 CONFIDENTIAL INTERNAL ASSESSMENT, APPROPRIATE TO THE NATURE, SCALE,
9 AND COMPLEXITY OF AN INSURER OR INSURANCE GROUP, CONDUCTED BY THE
10 INSURER OR INSURANCE GROUP, OF THE MATERIAL AND RELEVANT RISKS
11 ASSOCIATED WITH THE INSURER OR INSURANCE GROUP'S CURRENT BUSINESS
12 PLAN, AND THE SUFFICIENCY OF CAPITAL RESOURCES TO SUPPORT THOSE
13 RISKS.

14 (E) "ORSA GUIDANCE MANUAL" MEANS THE OWN RISK AND SOLVENCY
15 ASSESSMENT GUIDANCE MANUAL AS ADOPTED AND PRESCRIBED BY THE
16 DIRECTOR. A CHANGE IN THE ORSA GUIDANCE MANUAL IS EFFECTIVE ON THE
17 JANUARY 1 FOLLOWING THE CALENDAR YEAR IN WHICH THE CHANGES HAVE
18 BEEN ADOPTED AND PRESCRIBED BY THE DIRECTOR.

19 (F) "ORSA SUMMARY REPORT" MEANS A CONFIDENTIAL HIGH-LEVEL
20 SUMMARY OF AN INSURER OR INSURANCE GROUP'S ORSA.

21 SEC. 1703. AN INSURER SHALL MAINTAIN A RISK MANAGEMENT
22 FRAMEWORK TO ASSIST THE INSURER WITH IDENTIFYING, ASSESSING,
23 MONITORING, MANAGING, AND REPORTING ON ITS MATERIAL AND RELEVANT
24 RISKS. THIS REQUIREMENT MAY BE SATISFIED IF THE INSURANCE GROUP OF
25 WHICH THE INSURER IS A MEMBER MAINTAINS A RISK MANAGEMENT FRAMEWORK
26 APPLICABLE TO THE OPERATIONS OF THE INSURER.

27 SEC. 1705. SUBJECT TO SECTION 1709, AN INSURER, OR THE

1 INSURANCE GROUP OF WHICH THE INSURER IS A MEMBER, SHALL REGULARLY
2 CONDUCT AN ORSA CONSISTENT WITH A PROCESS COMPARABLE TO THE ORSA
3 GUIDANCE MANUAL. THE ORSA SHALL BE CONDUCTED NO LESS THAN ANNUALLY
4 BUT ALSO AT ANY TIME WHEN THERE ARE SIGNIFICANT CHANGES TO THE RISK
5 PROFILE OF THE INSURER OR THE INSURANCE GROUP OF WHICH THE INSURER
6 IS A MEMBER.

7 SEC. 1707. (1) AN INSURER SHALL ANNUALLY SUBMIT TO THE
8 DIRECTOR AN ORSA SUMMARY REPORT, OR ANY COMBINATION OF REPORTS THAT
9 TOGETHER CONTAIN THE INFORMATION AS DESCRIBED IN THE ORSA GUIDANCE
10 MANUAL, APPLICABLE TO THE INSURER, THE INSURANCE GROUP OF WHICH IT
11 IS A MEMBER, OR BOTH. WITHIN 90 DAYS AFTER THE EFFECTIVE DATE OF
12 THE AMENDATORY ACT THAT ADDED THIS SECTION, THE INSURER SHALL
13 SUBMIT TO THE DIRECTOR THE CALENDAR DATE THE INSURER WILL ANNUALLY
14 SUBMIT THE ORSA SUMMARY REPORT REQUIRED UNDER THIS SECTION. THE
15 INSURER SHALL FILE THE FIRST REPORT REQUIRED UNDER THIS SUBSECTION
16 NO LATER THAN THE INSURER'S SUBMITTED CALENDAR DATE IN 2018. IF THE
17 INSURER IS A MEMBER OF AN INSURANCE GROUP AND IF THE DIRECTOR IS
18 THE LEAD STATE REGULATOR OF THE INSURANCE GROUP AS DETERMINED UNDER
19 THE PROCEDURES WITHIN THE NATIONAL ASSOCIATION OF INSURANCE
20 COMMISSIONERS FINANCIAL ANALYSIS HANDBOOK, AS ADOPTED BY THE
21 DIRECTOR, THE INSURER SHALL SUBMIT A REPORT REQUIRED BY THIS
22 SUBSECTION.

23 (2) A REPORT REQUIRED UNDER SUBSECTION (1) MUST INCLUDE A
24 SIGNATURE OF THE INSURER OR INSURANCE GROUP'S CHIEF RISK OFFICER OR
25 OTHER EXECUTIVE HAVING RESPONSIBILITY FOR THE OVERSIGHT OF THE
26 INSURER'S ENTERPRISE RISK MANAGEMENT PROCESS ATTESTING TO THE BEST
27 OF HIS OR HER BELIEF AND KNOWLEDGE THAT THE INSURER APPLIES THE

1 ENTERPRISE RISK MANAGEMENT PROCESS DESCRIBED IN THE ORSA SUMMARY
2 REPORT AND THAT A COPY OF THE REPORT HAS BEEN PROVIDED TO THE
3 INSURER'S BOARD OF DIRECTORS OR APPROPRIATE COMMITTEE OF THE
4 INSURER'S BOARD OF DIRECTORS.

5 (3) AN INSURER MAY COMPLY WITH SUBSECTION (1) BY PROVIDING THE
6 MOST RECENT AND SUBSTANTIALLY SIMILAR REPORT PROVIDED BY THE
7 INSURER OR ANOTHER MEMBER OF AN INSURANCE GROUP OF WHICH THE
8 INSURER IS A MEMBER TO A COMMISSIONER OF ANOTHER STATE OR TO A
9 SUPERVISOR OR REGULATOR OF A FOREIGN JURISDICTION, IF THE REPORT
10 PROVIDES INFORMATION THAT IS COMPARABLE TO THE INFORMATION
11 DESCRIBED IN THE ORSA GUIDANCE MANUAL. A REPORT IN A LANGUAGE OTHER
12 THAN ENGLISH MUST BE ACCOMPANIED BY A TRANSLATION OF THE REPORT
13 INTO THE ENGLISH LANGUAGE.

14 SEC. 1709. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (5),
15 AN INSURER IS EXEMPT FROM THE REQUIREMENTS OF THIS CHAPTER, IF BOTH
16 OF THE FOLLOWING APPLY:

17 (A) THE INSURER HAS ANNUAL DIRECT WRITTEN AND UNAFFILIATED
18 ASSUMED PREMIUM, INCLUDING INTERNATIONAL DIRECT AND ASSUMED PREMIUM
19 BUT EXCLUDING PREMIUMS REINSURED WITH THE FEDERAL CROP INSURANCE
20 CORPORATION AND FEDERAL FLOOD PROGRAM, LESS THAN \$500,000,000.00.

21 (B) THE INSURANCE GROUP OF WHICH THE INSURER IS A MEMBER HAS
22 ANNUAL DIRECT WRITTEN AND UNAFFILIATED ASSUMED PREMIUM, INCLUDING
23 INTERNATIONAL DIRECT AND ASSUMED PREMIUM BUT EXCLUDING PREMIUMS
24 REINSURED WITH THE FEDERAL CROP INSURANCE CORPORATION AND FEDERAL
25 FLOOD PROGRAM, LESS THAN \$1,000,000,000.00.

26 (2) IF AN INSURER QUALIFIES FOR EXEMPTION UNDER SUBSECTION
27 (1) (A) BUT THE INSURANCE GROUP OF WHICH THE INSURER IS A MEMBER

1 DOES NOT QUALIFY FOR EXEMPTION UNDER SUBSECTION (1) (B), THE ORSA
2 SUMMARY REPORT THAT MAY BE REQUIRED UNDER SECTION 1707 MUST INCLUDE
3 EVERY INSURER WITHIN THE INSURANCE GROUP. THIS REQUIREMENT MAY BE
4 SATISFIED BY THE SUBMISSION OF MORE THAN 1 ORSA SUMMARY REPORT FOR
5 ANY COMBINATION OF INSURERS IF THE COMBINATION OF REPORTS INCLUDES
6 EVERY INSURER WITHIN THE INSURANCE GROUP.

7 (3) IF AN INSURER DOES NOT QUALIFY FOR EXEMPTION UNDER
8 SUBSECTION (1) (A) BUT THE INSURANCE GROUP OF WHICH IT IS A MEMBER
9 QUALIFIES FOR EXEMPTION UNDER SUBSECTION (1) (B), THE ONLY ORSA
10 SUMMARY REPORT THAT MAY BE REQUIRED UNDER SECTION 1707 IS THE
11 REPORT APPLICABLE TO THE INSURER.

12 (4) SUBJECT TO SUBSECTION (5), AN INSURER THAT DOES NOT
13 QUALIFY FOR EXEMPTION UNDER SUBSECTION (1) MAY APPLY TO THE
14 DIRECTOR FOR A WAIVER FROM THE REQUIREMENTS OF THIS CHAPTER BASED
15 ON UNIQUE CIRCUMSTANCES. IN DECIDING WHETHER TO GRANT THE INSURER'S
16 REQUEST FOR A WAIVER, THE DIRECTOR MAY CONSIDER THE TYPE AND VOLUME
17 OF BUSINESS WRITTEN, OWNERSHIP AND ORGANIZATIONAL STRUCTURE, AND
18 ANY OTHER FACTOR THE DIRECTOR CONSIDERS RELEVANT TO THE INSURER OR
19 INSURANCE GROUP OF WHICH THE INSURER IS A MEMBER. IF THE INSURER IS
20 PART OF AN INSURANCE GROUP WITH INSURERS DOMICILED IN MORE THAN 1
21 STATE, THE DIRECTOR SHALL COORDINATE WITH THE LEAD STATE
22 COMMISSIONER AND WITH THE OTHER DOMICILIARY COMMISSIONERS IN
23 CONSIDERING WHETHER TO GRANT THE INSURER'S REQUEST FOR A WAIVER.

24 (5) NOTWITHSTANDING THE EXEMPTION PROVIDED IN SUBSECTION (1),
25 THE DIRECTOR MAY REQUIRE 1 OR MORE OF THE FOLLOWING:

26 (A) THE DIRECTOR MAY REQUIRE THAT AN INSURER MAINTAIN A RISK
27 MANAGEMENT FRAMEWORK, CONDUCT AN ORSA, AND FILE AN ORSA SUMMARY

1 REPORT BASED ON UNIQUE CIRCUMSTANCES INCLUDING, BUT NOT LIMITED TO,
2 THE TYPE AND VOLUME OF BUSINESS WRITTEN, OWNERSHIP AND
3 ORGANIZATIONAL STRUCTURE, FEDERAL AGENCY REQUESTS, AND
4 INTERNATIONAL SUPERVISOR REQUESTS.

5 (B) THE DIRECTOR MAY REQUIRE THAT AN INSURER MAINTAIN A RISK
6 MANAGEMENT FRAMEWORK, CONDUCT AN ORSA, AND FILE AN ORSA SUMMARY
7 REPORT IF THE DIRECTOR DETERMINES 1 OR MORE OF THE FOLLOWING:

8 (i) THE INSURER HAS RISK-BASED CAPITAL FOR A COMPANY ACTION
9 LEVEL EVENT.

10 (ii) THE INSURER MEETS 1 OR MORE OF THE CONDITIONS DESCRIBED
11 IN SECTION 436.

12 (iii) THE OPERATION OF THE INSURER IS HAZARDOUS TO
13 POLICYHOLDERS, CREDITORS, OR THE PUBLIC UNDER SECTION 436A.

14 (iv) THE INSURER EXHIBITS QUALITIES OF A TROUBLED INSURER.

15 (6) IF AN INSURER THAT QUALIFIES FOR AN EXEMPTION UNDER
16 SUBSECTION (1) SUBSEQUENTLY NO LONGER QUALIFIES FOR THAT EXEMPTION
17 BECAUSE OF AN INCREASE IN PREMIUM AS REFLECTED IN THE INSURER'S
18 MOST RECENT ANNUAL STATEMENT OR IN THE MOST RECENT ANNUAL
19 STATEMENTS OF THE INSURERS WITHIN THE INSURANCE GROUP OF WHICH THE
20 INSURER IS A MEMBER, THE INSURER HAS 1 YEAR FOLLOWING THE YEAR THE
21 PREMIUM EXCEEDED THE LIMITATION PROVIDED IN SUBSECTION (1) TO
22 COMPLY WITH THIS CHAPTER.

23 SEC. 1711. (1) SUBJECT TO SUBSECTION (2), AN INSURER SHALL
24 PREPARE AN ORSA SUMMARY REPORT UNDER SECTION 1707 CONSISTENT WITH
25 THE ORSA GUIDANCE MANUAL PRESCRIBED BY THE DIRECTOR. THE INSURER
26 SHALL MAINTAIN AND MAKE AVAILABLE TO THE DIRECTOR DOCUMENTATION AND
27 SUPPORTING INFORMATION RELATING TO THE ORSA SUMMARY REPORT.

1 (2) THE DIRECTOR SHALL REVIEW AN ORSA SUMMARY REPORT AND ANY
2 ADDITIONAL REQUESTS FOR INFORMATION USING SIMILAR PROCEDURES USED
3 IN THE ANALYSIS AND EXAMINATION OF MULTISTATE OR GLOBAL INSURERS
4 AND INSURANCE GROUPS.

5 SEC. 1713. (1) DOCUMENTS, MATERIALS, OR OTHER INFORMATION,
6 INCLUDING THE ORSA SUMMARY REPORT, IN THE POSSESSION OR CONTROL OF
7 THE DIRECTOR THAT ARE OBTAINED BY, CREATED BY, OR DISCLOSED TO THE
8 DIRECTOR OR ANY OTHER PERSON UNDER THIS CHAPTER ARE CONSIDERED
9 PROPRIETARY AND TO CONTAIN TRADE SECRETS. THE DOCUMENTS, MATERIALS,
10 OR OTHER INFORMATION ARE CONFIDENTIAL AND PRIVILEGED, ARE NOT
11 SUBJECT TO DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT, 1976 PA
12 442, MCL 15.231 TO 15.246, ARE NOT SUBJECT TO SUBPOENA, AND ARE NOT
13 SUBJECT TO DISCOVERY OR ADMISSIBLE IN EVIDENCE IN A PRIVATE CIVIL
14 ACTION. HOWEVER, THE DIRECTOR MAY USE THE DOCUMENTS, MATERIALS, OR
15 OTHER INFORMATION IN THE FURTHERANCE OF ANY REGULATORY OR LEGAL
16 ACTION BROUGHT AS A PART OF THE DIRECTOR'S OFFICIAL DUTIES. THE
17 DIRECTOR SHALL NOT OTHERWISE MAKE THE DOCUMENTS, MATERIALS, OR
18 OTHER INFORMATION PUBLIC WITHOUT THE PRIOR WRITTEN CONSENT OF THE
19 INSURER TO WHICH IT PERTAINS.

20 (2) THE DIRECTOR OR ANY PERSON WHO RECEIVED DOCUMENTS,
21 MATERIALS, OR OTHER ORSA-RELATED INFORMATION, THROUGH EXAMINATION
22 OR OTHERWISE, WHILE ACTING UNDER THE AUTHORITY OF THE DIRECTOR OR
23 WITH WHOM THE DOCUMENTS, MATERIALS, OR OTHER INFORMATION ARE SHARED
24 UNDER THIS ACT SHALL NOT TESTIFY IN A PRIVATE CIVIL ACTION
25 CONCERNING CONFIDENTIAL DOCUMENTS, MATERIALS, OR INFORMATION
26 DESCRIBED IN SUBSECTION (1).

27 (3) THE DIRECTOR MAY DO ALL OF THE FOLLOWING:

1 (A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, ON
2 REQUEST, SHARE DOCUMENTS, MATERIALS, OR OTHER ORSA-RELATED
3 INFORMATION, INCLUDING THE CONFIDENTIAL AND PRIVILEGED DOCUMENTS,
4 MATERIALS, OR INFORMATION DESCRIBED IN SUBSECTION (1), INCLUDING
5 PROPRIETARY AND TRADE SECRET DOCUMENTS AND MATERIALS WITH OTHER
6 STATE, FEDERAL, AND INTERNATIONAL FINANCIAL REGULATORY AGENCIES,
7 INCLUDING MEMBERS OF A SUPERVISORY COLLEGE, WITH THE NAIC AND WITH
8 ANY THIRD-PARTY CONSULTANTS DESIGNATED BY THE DIRECTOR. THE
9 DIRECTOR SHALL NOT SHARE DOCUMENTS, MATERIALS, OR OTHER ORSA-
10 RELATED INFORMATION DESCRIBED IN THIS SUBDIVISION UNLESS THE
11 RECIPIENT AGREES IN WRITING TO MAINTAIN THE CONFIDENTIALITY AND
12 PRIVILEGED STATUS OF THE ORSA-RELATED DOCUMENTS, MATERIALS, OR
13 OTHER INFORMATION AND HAS VERIFIED IN WRITING THE LEGAL AUTHORITY
14 TO MAINTAIN CONFIDENTIALITY.

15 (B) SUBJECT TO THIS SUBDIVISION, RECEIVE DOCUMENTS, MATERIALS,
16 OR OTHER ORSA-RELATED INFORMATION, INCLUDING OTHERWISE CONFIDENTIAL
17 AND PRIVILEGED DOCUMENTS, MATERIALS, OR INFORMATION, INCLUDING
18 PROPRIETARY AND TRADE-SECRET INFORMATION OR DOCUMENTS, FROM
19 REGULATORY OFFICIALS OF OTHER FOREIGN OR DOMESTIC JURISDICTIONS,
20 INCLUDING MEMBERS OF A SUPERVISORY COLLEGE, AND FROM THE NAIC. THE
21 DIRECTOR SHALL MAINTAIN AS CONFIDENTIAL OR PRIVILEGED ANY
22 DOCUMENTS, MATERIALS, OR INFORMATION RECEIVED WITH NOTICE OR THE
23 UNDERSTANDING THAT IT IS CONFIDENTIAL OR PRIVILEGED UNDER THE LAWS
24 OF THE JURISDICTION THAT IS THE SOURCE OF THE DOCUMENT, MATERIAL,
25 OR INFORMATION.

26 (4) THE DIRECTOR SHALL ENTER INTO A WRITTEN AGREEMENT WITH THE
27 NAIC OR A THIRD-PARTY CONSULTANT GOVERNING SHARING AND USE OF

1 INFORMATION PROVIDED UNDER THIS CHAPTER. THE WRITTEN AGREEMENT MUST
2 DO ALL OF THE FOLLOWING:

3 (A) SPECIFY PROCEDURES AND PROTOCOLS REGARDING THE
4 CONFIDENTIALITY AND SECURITY OF INFORMATION SHARED WITH THE NAIC OR
5 A THIRD-PARTY CONSULTANT UNDER THIS CHAPTER, INCLUDING PROCEDURES
6 AND PROTOCOLS FOR SHARING BY THE NAIC WITH OTHER STATE REGULATORS
7 FROM STATES IN WHICH THE INSURANCE GROUP HAS DOMICILED INSURERS.

8 (B) CONTAIN A STATEMENT THAT THE RECIPIENT AGREES IN WRITING
9 TO MAINTAIN THE CONFIDENTIALITY AND PRIVILEGED STATUS OF THE ORSA-
10 RELATED DOCUMENTS, MATERIALS, OR OTHER INFORMATION AND HAS VERIFIED
11 IN WRITING THE LEGAL AUTHORITY TO MAINTAIN CONFIDENTIALITY.

12 (C) SPECIFY THAT THE DIRECTOR OWNS THE INFORMATION SHARED WITH
13 THE NAIC OR A THIRD-PARTY CONSULTANT UNDER THIS CHAPTER AND THAT
14 THE NAIC'S OR THIRD-PARTY CONSULTANT'S USE OF THE INFORMATION IS
15 SUBJECT TO THE DIRECTION OF THE DIRECTOR.

16 (D) PROHIBIT THE NAIC OR THIRD-PARTY CONSULTANT FROM STORING
17 THE INFORMATION SHARED UNDER THIS CHAPTER IN A PERMANENT DATABASE
18 AFTER THE UNDERLYING ANALYSIS IS COMPLETED.

19 (E) REQUIRE PROMPT NOTICE TO BE GIVEN TO AN INSURER WHOSE
20 CONFIDENTIAL INFORMATION IN THE POSSESSION OF THE NAIC OR THIRD-
21 PARTY CONSULTANT UNDER THIS CHAPTER IS SUBJECT TO A REQUEST OR
22 SUBPOENA TO THE NAIC OR THIRD-PARTY CONSULTANT FOR DISCLOSURE OR
23 PRODUCTION.

24 (F) REQUIRE THE NAIC OR THIRD-PARTY CONSULTANT TO CONSENT TO
25 INTERVENTION BY AN INSURER IN ANY JUDICIAL OR ADMINISTRATIVE ACTION
26 IN WHICH THE NAIC OR THIRD-PARTY CONSULTANT MAY BE REQUIRED TO
27 DISCLOSE CONFIDENTIAL INFORMATION ABOUT THE INSURER SHARED WITH THE

1 NAIC OR THIRD-PARTY CONSULTANT UNDER THIS CHAPTER.

2 (G) FOR AN AGREEMENT INVOLVING A THIRD-PARTY CONSULTANT,
3 PROVIDE FOR THE INSURER'S WRITTEN CONSENT.

4 (5) THE SHARING OF INFORMATION AND DOCUMENTS BY THE DIRECTOR
5 UNDER THIS CHAPTER IS NOT A DELEGATION OF REGULATORY AUTHORITY OR
6 RULE-MAKING, AND THE DIRECTOR IS SOLELY RESPONSIBLE FOR THE
7 ADMINISTRATION, EXECUTION, AND ENFORCEMENT OF THIS CHAPTER.

8 (6) THE DISCLOSURE OR SHARING OF DOCUMENTS, PROPRIETARY AND
9 TRADE-SECRET MATERIALS, OR OTHER ORSA-RELATED INFORMATION TO THE
10 DIRECTOR OR OTHER PERSON UNDER THIS CHAPTER IS NOT A WAIVER OF AN
11 APPLICABLE PRIVILEGE OR CLAIM OF CONFIDENTIALITY.

12 (7) DOCUMENTS, MATERIALS, OR OTHER INFORMATION IN THE
13 POSSESSION OR CONTROL OF THE NAIC OR THIRD-PARTY CONSULTANTS UNDER
14 THIS CHAPTER IS CONFIDENTIAL AND PRIVILEGED, IS NOT SUBJECT TO
15 DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL
16 15.231 TO 15.246, IS NOT SUBJECT TO SUBPOENA, AND IS NOT SUBJECT TO
17 DISCOVERY OR ADMISSIBLE IN EVIDENCE IN A PRIVATE CIVIL ACTION.

18 (8) DOCUMENTS, MATERIALS, OR OTHER INFORMATION IN THE
19 POSSESSION OF AN INSURER CREATED BY THE INSURER TO COMPLY WITH THIS
20 CHAPTER IS CONFIDENTIAL AND PRIVILEGED, IS NOT SUBJECT TO SUBPOENA
21 OR TO DISCOVERY, AND IS NOT ADMISSIBLE IN EVIDENCE IN A PRIVATE
22 CIVIL ACTION.

23 SEC. 1715. AN INSURER THAT DOES NOT, WITHOUT JUST CAUSE,
24 TIMELY FILE AN ORSA SUMMARY REPORT AS REQUIRED IN THIS CHAPTER
25 SHALL PAY A CIVIL FINE OF \$1,000.00 FOR EACH DAY'S DELAY, TO BE
26 RECOVERED BY THE DIRECTOR AND PAID INTO THE GENERAL FUND. THE
27 MAXIMUM CIVIL FINE UNDER THIS SECTION IS \$75,000.00. THE DIRECTOR

1 MAY REDUCE THE PENALTY IF THE INSURER DEMONSTRATES TO THE DIRECTOR
2 THAT THE PENALTY WOULD CAUSE A FINANCIAL HARDSHIP TO THE INSURER.