

# HOUSE BILL NO. 6300

June 30, 2022, Introduced by Reps. Anthony, Beeler, Harris, Steenland, Borton, Calley and Sneller  
and referred to the Committee on Rules and Competitiveness.

A bill to amend 1956 PA 218, entitled  
"The insurance code of 1956,"  
by amending section 1355 (MCL 500.1355), as amended by 2015 PA 244.

## **THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1355. (1) Except as otherwise provided in this  
2       subsection, ~~the information, documents, and copies of documents,~~  
3       **materials, and other information in the possession or control of**  
4       **the department that are** obtained by or disclosed to the director or  
5       any other person in the course of an examination or investigation  
6       made under ~~sections 1351 and 1357 and the information reported~~

~~under sections 1324 to 1333 is confidential, is section 1351, and~~  
~~all information reported or provided to the department under~~  
~~sections 1312(2), 1324 to 1333, 1341 to 1344, and 1359, are~~  
~~proprietary and contain trade secrets, are confidential and~~  
~~privileged, are~~ not subject to the freedom of information act, 1976  
 PA 442, MCL 15.231 to 15.246, ~~is~~**are** not subject to subpoena, ~~is~~  
~~and are~~ not subject to discovery or admissible in evidence in a  
 private civil or administrative action. ~~, and shall not be made~~  
~~public by the director or any other person,~~

(2) Except as otherwise provided in subsections (5) and (6),  
 the director may use the documents, materials, or information  
 described in subsection (1) in furtherance of a regulatory or legal  
 action brought as part of the director's official duties.

(3) Except as otherwise provided in subsections (2), (4), and  
 (5), the director shall not publicly disclose the documents,  
 materials, or information described in subsection (1) without the  
 prior written consent of the insurer to which it pertains. ~~The~~

(4) Except as otherwise provided in subsections (2) and (5),  
 the director may, after giving the insurer and its affiliates ~~who~~  
~~that~~ would be affected by the disclosure notice and opportunity to  
 be heard, disclose ~~the~~**all or part of any document, material, or**  
**information described in subsection (1)** if the director determines  
 that the interests of policyholders, shareholders, or the public  
 will be served by the publication of the **document, material, or**  
 information.

(5) The director shall not disclose any of the following  
 information:

(a) All of the following information reported and provided to  
 the department under section 1325b:

1 (i) The group capital calculation.

2 (ii) The group capital ratio produced within the group capital  
3 calculation.

4 (iii) Any group capital information received from an insurance  
5 holding company supervised by the Federal Reserve Board or any  
6 United States group-wide supervisor.

7 (b) All of the following information reported and provided to  
8 the department under section 1325c:

9 (i) The liquidity stress test results.

10 (ii) Any supporting disclosures to the liquidity stress test  
11 results.

12 (iii) Any liquidity stress test information received from an  
13 insurance holding company supervised by the Federal Reserve Board  
14 and non-United States group-wide supervisors.

15 (6) The director or a person who received documents,  
16 materials, or other information while acting under the authority of  
17 the director or with whom the documents, materials, or other  
18 information is shared under this ~~act~~**chapter** shall not testify in a  
19 private civil or administrative action concerning ~~confidential~~  
20 documents, materials, or information ~~obtained under sections 1351~~  
21 ~~and 1357 and information reported under sections 1324 to~~  
22 ~~1333.~~**described in subsections (1) to (5).**

23 (7) ~~(2) The~~**Except as otherwise provided in subsection (8),**  
24 **the** director may share documents, materials, or other information,  
25 including ~~the confidential and privileged documents, materials, or~~  
26 ~~information obtained under sections 1351 and 1357 and information~~  
27 ~~reported under sections 1324 to 1333 with other documents,~~  
28 **materials, and information that are confidential, privileged,**  
29 **proprietary, and constitute trade secrets under subsection (1),**

1 with any of the following entities if the entity agrees in writing  
 2 to maintain the confidentiality and privileged status of the  
 3 document, material, or information and has verified in writing the  
 4 legal authority to maintain the confidentiality:

5 (a) A state, federal, ~~and or~~ international regulatory  
 6 agencies; ~~the~~ agency.

7 (b) The NAIC. ~~;~~ and

8 (c) A third-party consultant designated by the director.

9 (d) A state, federal, ~~and or~~ international law enforcement  
 10 authorities, ~~authority~~, including ~~members~~ a member of a supervisory  
 11 college under section 1357. ~~, if the regulator, the NAIC, or law~~  
 12 ~~enforcement authority agrees in writing to maintain the~~  
 13 ~~confidentiality and privileged status of the document, material, or~~  
 14 ~~other information and has verified in writing the legal authority~~  
 15 ~~to maintain confidentiality.~~

16 (8) The director may only share confidential and privileged  
 17 documents, material, or information **that are** reported under section  
 18 1325a with commissioners of states having statutes or regulations  
 19 substantially similar to ~~subsection (1)~~ **subsections (1) to (5)** and  
 20 who have agreed in writing to not disclose the **documents,**  
 21 **materials, or** information.

22 (9) The director may receive documents, materials, or  
 23 information, including ~~otherwise confidential and privileged~~  
 24 documents, materials, or information **that are confidential,**  
 25 **privileged, or proprietary or that constitute trade secrets,** from  
 26 the NAIC **and its affiliates and subsidiaries** and from regulatory  
 27 and law enforcement officials of other foreign or domestic  
 28 jurisdictions, and shall maintain as confidential or privileged any  
 29 document, material, or information received with notice or the

1 understanding that it is confidential or privileged under the laws  
 2 of the jurisdiction that is the source of the document, material,  
 3 or information.

4 **(10)** ~~The disclosure or sharing of information, a document, or~~  
 5 ~~other material of documents, materials, or other information~~ to the  
 6 director or ~~other another~~ person under this section **or the sharing**  
 7 **of documents, materials, or other information under this section** is  
 8 not a waiver of an applicable privilege or claim of  
 9 confidentiality.

10 **(11)** ~~(3)~~ Documents, materials, or other information in the  
 11 possession or control of the ~~department or the NAIC~~ **or a third-**  
 12 **party consultant designated by the director** under this chapter are  
 13 confidential and privileged, are not subject to the freedom of  
 14 information act, 1976 PA 442, MCL 15.231 to 15.246, are not subject  
 15 to subpoena, and are not subject to discovery or admissible as  
 16 evidence in a private civil or administrative action.

17 **(12)** The director shall enter into written agreements with the  
 18 NAIC **and any third-party consultant designated by the director**  
 19 governing sharing and use of information provided under this  
 20 chapter. The written agreement must ~~specify~~ **meet all of the**  
 21 **following requirements:**

22 **(a) Specify** procedures and protocols regarding the  
 23 confidentiality and security of information shared with the NAIC  
 24 ~~and its affiliates and subsidiaries, or a third-party consultant~~  
 25 **designated by the director under this chapter**, including procedures  
 26 and protocols for sharing by the NAIC with other state, federal, or  
 27 international regulators. The ~~agreement must provide~~ **procedures and**  
 28 **protocols must require the recipient of the shared documents,**  
 29 **materials, or information to agree in writing to maintain the**

1 confidentiality and privileged status of the documents, materials,  
2 and information and verify in writing the legal authority to  
3 maintain the confidentiality.

4 (b) **Specify** that the director owns the information shared with  
5 the NAIC ~~and its affiliates and subsidiaries or a third-party~~  
6 **consultant designated by the director under this chapter** and that  
7 the NAIC's **or the third-party consultant's** use of the information  
8 is subject to the direction of the director. ~~The agreement must~~  
9 ~~provide for~~

10 (c) **Prohibit** the NAIC or a third-party consultant designated  
11 by the director from storing information shared under this chapter  
12 in a permanent database after the underlying analysis is completed.  
13 This subdivision does not apply to documents, materials, or other  
14 information reported under 1325c.

15 (d) **Require** prompt notice to be given to an insurer whose  
16 confidential information in possession of the NAIC **or a third-party**  
17 **consultant designated by the director** under this chapter is subject  
18 to a request or subpoena to the NAIC **or a third-party consultant**  
19 **designated by the director** for disclosure or production. ~~and~~  
20 ~~require~~

21 (e) **Require** the NAIC ~~and its affiliates and subsidiaries or a~~  
22 **third-party consultant designated by the director** to consent to  
23 intervention by an insurer in a judicial or administrative action  
24 in which the NAIC or the third-party consultant designated by the  
25 director may be required to disclose confidential information about  
26 the insurer shared under this chapter with the NAIC or third-party  
27 consultant designated by the director.

28 (13) In addition to any requirement for an agreement set forth  
29 in subsection (12), if a third-party consultant designated by the

1 director is a party to the agreement, with regard to documents,  
2 materials, or information reported under section 1325c, the  
3 agreement must provide for notification of the identity of the  
4 third-party consultant to the applicable insurer.

5 (14) The group capital calculation and resulting group capital  
6 ratio required under section 1325b and the NAIC liquidity stress  
7 test and its results and supporting disclosures required under  
8 section 1325c are regulatory tools for assessing group risk and  
9 capital adequacy and group liquidity risks, respectively, and are  
10 not intended as a means to rank insurers or insurance holding  
11 company systems.

12 (15) Except as otherwise provided under this chapter, making,  
13 publishing, disseminating, circulating, or placing before the  
14 public, or causing, directly or indirectly, to be made, published,  
15 disseminated, circulated, or placed before the public, in a  
16 newspaper, magazine, or other publication, in the form of a notice,  
17 circular, pamphlet, letter, or poster, over any radio or television  
18 station, by any electronic means of communication available to the  
19 public, or in any other way as an advertisement, announcement, or  
20 statement containing a representation or statement with regard to  
21 the group capital calculation or group capital ratio under section  
22 1325b, or the liquidity stress test results or supporting  
23 disclosures for the liquidity stress tests under section 1325c, of  
24 any insurer or any insurer group, or of any component derived in  
25 the calculation by any insurer group, of any component derived in  
26 the calculation by any insurer, broker, or other person engaged in  
27 any manner in the insurance business, would be misleading and is  
28 prohibited.

29 (16) If any materially false statement with respect to the

1 group capital calculation or resulting group capital ratio, an  
 2 inappropriate comparison of any amount to an insurer's or insurance  
 3 group's group capital calculation, resulting group capital ratio  
 4 under section 1325b or liquidity stress test result, or supporting  
 5 disclosures for the liquidity stress test, or an inappropriate  
 6 comparison of any amount to an insurer's or insurance group's  
 7 liquidity stress test result or supporting disclosures under  
 8 section 1325c is published in any written publication and the  
 9 insurer is able to demonstrate to the director with substantial  
 10 proof the falsity of the statement or its inappropriateness, the  
 11 insurer may publish announcements in a written publication if the  
 12 sole purpose of the announcement is to rebut the materially false  
 13 statement.

14 (17) ~~(4)~~ The sharing of information by the director under this  
 15 chapter is not a delegation of regulatory authority or rule-making,  
 16 and the director is solely responsible for the administration,  
 17 execution, and enforcement ~~of the provisions~~ of this chapter.

18 Enacting section 1. This amendatory act does not take effect  
 19 unless all of the following bills of the 101st Legislature are  
 20 enacted into law:

21 (a) Senate Bill No. \_\_\_\_ or House Bill No. 6297 (request no.  
 22 05935'22).

23 (b) Senate Bill No. \_\_\_\_ or House Bill No. 6299 (request no.  
 24 06317'22).

25 (c) Senate Bill No. \_\_\_\_ or House Bill No. 6301 (request no.  
 26 06318'22).

27 (d) Senate Bill No. \_\_\_\_ or House Bill No. 6302 (request no.  
 28 06319'22).

29 (e) Senate Bill No. \_\_\_\_ or House Bill No. 6303 (request no.



1 06320'22).

2 (f) Senate Bill No. \_\_\_\_\_ or House Bill No. 6298 (request no.

3 06322'22).