

BILL NO. 36-0184

Thirty-Sixth Legislature of the Virgin Islands

September 10, 2025

An act amending title 22 Virgin Islands Code, chapter 14, The Virgin Islands Insurance Holding Company System Regulatory Act to implement revisions that were made to the National Association of Insurance Commissioners

PROPOSED BY: Senators Milton E. Potter, and Novelle E. Francis, Jr.
by Request of the Governor

1 **WHEREAS**, it is imperative that all United States jurisdictions, including the Virgin
2 Islands, periodically update their insurance laws commensurate with the ever-evolving
3 insurance industry to strengthen the solvency regulation of insurance companies doing business
4 in the United States; and

5 **WHEREAS**, the National Association of Insurance Commissioners (“NAIC”) is a
6 nonprofit organization comprised of all insurance regulators in the United States, has
7 established and continues to establish core accreditation standards and a comprehensive set of
8 laws, known as Model Laws and Regulations, to assist United States jurisdictions in their
9 regulation of their multi-state domestic insurance industry;

1 **WHEREAS**, jurisdictions in the United States that are accredited by the NAIC have been
2 required to adopt, and to continue to adopt, NAIC Model Laws and Regulations, to achieve and
3 maintain accreditation status with the NAIC;

4 **WHEREAS**, on December 6, 2019, the Virgin Islands, through the Office of the
5 Lieutenant Governor, Division of Banking, Insurance and Financial Regulation (“Division”),
6 was unanimously accredited by the NAIC and on November 16, 2024, was unanimously re-
7 accredited by the NAIC, an achievement of immeasurable significance, which requires the
8 Virgin Islands to enact certain NAIC Model Laws, and to promulgate related NAIC regulations,
9 to maintain its accreditation status;

10 **WHEREAS**, on July 20, 2017, Act No. 8003, also known as “The Virgin Islands
11 Insurance Holding Company System Regulatory Act”, which is an NAIC Model Law, was
12 signed into law, and was later codified as title 22 Virgin Islands Code, chapter 14;

13 **WHEREAS**, in 2020 and 2021, the NAIC revised provisions of the Insurance Holding
14 Company System Regulatory Act Model Law, to include provisions that are related to a group
15 capital calculation, liquidity stress test and receivership;

16 **WHEREAS**, as of February 21, 2025, the provisions that are related to the group capital
17 calculation and liquidity stress test have been adopted as amendments to law in 35 United States
18 jurisdictions, and are currently under consideration in another 10 United States jurisdictions,
19 and the provisions that are related to receivership have been adopted as amendments to law in
20 19 United States jurisdictions, and are currently under consideration in another seven United
21 States jurisdictions;

22 **WHEREAS**, the amendments to the NAIC’s Insurance Holding Company System
23 Regulatory Act Model Law include provisions that are an NAIC accreditation requirement, and

as such, the Virgin Islands, as an NAIC accredited jurisdiction, must adopt these provisions for the Virgin Islands to maintain its NAIC accreditation; and

WHEREAS, the revisions to the NAIC's Insurance Holding Company System Regulatory Act Model Law will:

- (1) enhance the supervision of an insurance group;
- (2) provide key financial information on an insurance group;
- (3) quantify risk across an insurance group;
- (4) support transparency into how capital is allocated in an insurance group; and
- (5) ensure the continuation of essential services that are provided by affiliates of insurers that may be transitioning to a receivership, to mitigate potential disruptions in insurance operations and protect policyholders; Now, therefore,

Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. Title 22 Virgin Islands Code, chapter 14 is amended as follows:

(a) Section 321 is amended by striking "(1), (2), and (3)" of subsection (h), and inserting "(A), (B) and (C)", respectively; redesignating the subsections as paragraphs (1) through (16), respectively; and by inserting the following definitions in their respective alphabetical order:

"Group Capital Calculation Instructions" means the group capital calculation instructions as adopted by the NAIC and as amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC."

"NAIC Liquidity Stress Test Framework" means a separate NAIC publication which includes a history of the NAIC's development of regulatory liquidity stress testing, the scope criteria applicable for a specific data year, and the liquidity stress

1 test instructions and reporting templates for a specific data year, such scope criteria,
2 instructions and reporting template being as adopted by the NAIC and as amended
3 by the NAIC from time to time in accordance with the procedures adopted by the
4 NAIC.”

5 “Scope Criteria” means, as detailed in the NAIC liquidity stress test framework, the
6 designated exposure bases along with minimum magnitudes thereof for the
7 specified data year, used to establish a preliminary list of insurers considered scoped
8 into the NAIC liquidity stress test framework for that data year.”

9 (b) Section 323, subsection (b), paragraph (12) is amended by inserting “(1)” after
10 “section 325(l)”.

11 (c) Section 325 is amended as follows:

12 (1) In subsection (d) by adding a sentence immediately following the last
13 sentence that reads: “The definition of materiality provided in this subsection is not
14 applicable to the group capital calculation or the liquidity stress test framework.”

15 (2) In subsection (l), by designating the existing language paragraph (1) and
16 adding the following paragraphs (2) and (3):

17 “(2) Except as provided below, the ultimate controlling person of every
18 insurer subject to registration shall concurrently file with the registration an annual
19 group capital calculation as directed by the lead state commissioner. The report
20 must be completed in accordance with the NAIC group capital calculation
21 instructions, which may permit the lead state commissioner to allow a controlling
22 person who is not the ultimate controlling person to file the group capital
23 calculation. The report must be filed with the lead state commissioner of the

1 insurance holding company system as determined by the commissioner in
2 accordance with the procedures in the Financial Analysis Handbook adopted by the
3 NAIC. Insurance holding company systems described below are exempt from
4 filing the group capital calculation.

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

8 (B) An insurance holding company system that must perform a group
9 capital calculation specified by the United States Federal Reserve Board. The
10 lead state commissioner shall request the calculation from the Federal
11 Reserve Board under the terms of information sharing agreements in effect.
12 If the Federal Reserve Board cannot share the calculation with the lead state
13 commissioner, the insurance holding company system is not exempt from the
14 group capital calculation filing.

15 (C) An insurance holding company system whose non-United States
16 group-wide supervisor is in a reciprocal jurisdiction as described in section
17 1443(h) that recognizes the United States state regulatory approach to group
18 supervision and group capital.

19 (D) An insurance holding company system:

20 (i) that provides information to the lead state that meets the
21 requirements for accreditation under the NAIC financial standards and
22 accreditation program, either directly or indirectly through the group-
23 wide supervisor, who has determined that the information is satisfactory

1 to allow the lead state to comply with the NAIC group supervision
2 approach, as detailed in the NAIC Financial Analysis Handbook, and

3 (ii) whose non-United States group-wide supervisor who is not
4 in a reciprocal jurisdiction recognizes and accepts, as specified by the
5 Commissioner in regulation, the group capital calculation as the world-
6 wide group capital assessment for United States insurance groups that
7 operate in that jurisdiction.

8 (E) Notwithstanding the provisions of subsection (I), paragraph (2),
9 subparagraphs (C) and (D), a lead state commissioner shall require the group
10 capital calculation for United States operations of any non-United States
11 based insurance holding company system where, after any necessary
12 consultation with other supervisors or officials, it is considered appropriate
13 by the lead state commissioner for prudential oversight and solvency
14 monitoring purposes or for ensuring the competitiveness of the insurance
15 marketplace.

16 (F) Notwithstanding the exemptions from filing the group capital
17 calculation stated in subsection (I), paragraph (2), subparagraphs (A) through
18 (D), the lead state commissioner has the discretion to exempt the ultimate
19 controlling person from filing the annual group capital calculation or to accept
20 a limited group capital filing or report in accordance with criteria as specified
21 by the commissioner in regulation.

22 (G) If the lead state commissioner determines that an insurance
23 holding company system no longer meets one or more of the requirements for

1 an exemption from filing the group capital calculation under this section, the
2 insurance holding company system shall file the group capital calculation at
3 the next annual filing date unless given an extension by the lead state
4 commissioner based on reasonable grounds shown.

5 (3) The ultimate controlling person of every insurer subject to registration
6 and scoped into the NAIC liquidity stress test framework shall file the results of a
7 specific year's liquidity stress test. The filing must be made to the lead state
8 insurance commissioner of the insurance holding company system as determined
9 by the procedures within the Financial Analysis Handbook adopted by the NAIC.

10 (A) The NAIC liquidity stress test framework includes scope criteria
11 applicable to a specific data year. These scope criteria are reviewed at least
12 annually by the NAIC financial stability task force or its successor. Any
13 change to the NAIC liquidity stress test framework or to the data year for
14 which the scope criteria are to be measured is effective on January 1 of the
15 year following the calendar year when the changes are adopted. Insurers
16 meeting at least one threshold of the scope criteria are considered scoped into
17 the NAIC liquidity stress test framework for the specified data year unless the
18 lead state insurance commissioner, in consultation with the NAIC financial
19 stability task force or its successor, determines the insurer should not be
20 scoped into the framework for that data year. Similarly, insurers that do not
21 trigger at least one threshold of the scope criteria are considered scoped out
22 of the NAIC liquidity stress test framework for the specified data year, unless
23 the lead state insurance commissioner, in consultation with the NAIC

1 financial stability task force or its successor, determines the insurer should be
2 scoped into the framework for that data year. Regulators wish to avoid having
3 insurers scoped in and out of the NAIC liquidity stress test framework on a
4 frequent basis. The lead state insurance commissioner, in consultation with
5 the NAIC financial stability task force or its successor, shall assess this
6 concern as part of the determination for an insurer.

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

12 (d) Section 326, subsection (a) is amended as follows:

13 (1) In paragraph (1), by adding the following subparagraphs (G) and (H):

14 "(G) (i) If the Commissioner determines that an insurer is in a hazardous
15 financial condition as set forth in sections 519 and 520 of this title, or a condition
16 that is grounds for supervision, conservation or a delinquency proceeding as set
17 forth in chapter 51 of this title, the Commissioner may require the insurer to secure
18 and maintain either a deposit, held by the Commissioner, or a bond, as determined
19 by the insurer at the insurer's discretion, for the protection of the insurer for the
20 duration of the contract or agreement, or the existence of the condition for which
21 the Commissioner required the deposit or the bond. In determining whether a
22 deposit or a bond is required, the Commissioner shall consider whether concerns

1 exist regarding the affiliated person's ability to fulfill the contract or agreement if
2 the insurer were to be put into liquidation.

3 (ii) When the insurer is determined to be in a hazardous financial condition
4 or a condition that is grounds for supervision, conservation or a delinquency
5 proceeding, and a deposit or bond is necessary, the Commissioner shall determine
6 the amount of the deposit or bond, not to exceed the value of the contract or
7 agreement in any one year, and whether the deposit or bond is required for a single
8 contract, multiple contracts or a contract with a specific person.

9 (H)(i) All records and data of the insurer held by an affiliate are and remain
10 the property of the insurer, are subject to control of the insurer, are identifiable, and
11 are segregated or readily capable of segregation, at no additional cost to the insurer,
12 from all other persons' records and data. This includes all records and data that are
13 otherwise the property of the insurer, in whatever form maintained, including, but
14 not limited to, claims and claim files, policyholder lists, application files, litigation
15 files, premium records, rate books, underwriting manuals, personnel records,
16 financial records or similar records within the possession, custody or control of the
17 affiliate.

18 (ii) At the request of the insurer, the affiliate shall provide that the receiver
19 can obtain a complete set of all records of any type that pertain to the insurer's
20 business; obtain access to the operating systems on which the data is maintained;
21 obtain the software that runs those systems either through assumption of licensing
22 agreements or otherwise; and restrict the use of the data by the affiliate if it is not
23 operating the insurer's business. The affiliate shall provide a waiver of any landlord

1 lien or other encumbrance to give the insurer access to all records and data in the
2 event of the affiliate's default under a lease or other agreement.

3 (iii) Premiums or other funds belonging to the insurer that are collected by or
4 held by an affiliate are the exclusive property of the insurer and are subject to the
5 control of the insurer. Any right of offset if an insurer is placed into receivership is
6 subject to chapter 51 of this title.”; and

7 (2) By adding the following paragraph (6):

8 “(6) (A) Any affiliate that is party to an agreement or contract with a domestic
9 insurer that is subject to subsection (a)(2)(D) is subject to the jurisdiction of any
10 supervision, seizure, conservatorship, receivership or delinquency proceeding set
11 forth in chapter 51 of this title against the insurer, and to the authority of any
12 supervisor, conservator, rehabilitator, liquidator or receiver for the insurer
13 appointed pursuant to chapter 51, for the purpose of interpreting, enforcing and
14 overseeing the affiliate's obligations under the agreement or contract to perform
15 services for the insurer that:

16 (i) Are an integral part of the insurer's operations, including, but not
17 limited to management, administrative, accounting, data processing,
18 marketing, underwriting, claims handling, investment or any other similar
19 functions; or

20 (ii) Are essential to the insurer's ability to fulfill its obligations under
21 insurance policies.

22 (B) The Commissioner may require that an agreement or contract under
23 subsection (a)(2)(D) for the provision of services described in (i) and (ii) of this

1 paragraph, specify that the affiliate consents to the jurisdiction as set forth in this
2 paragraph.”

3 (e) Section 330 is amended as follows:

4 (1) In subsection (a), by inserting “are recognized by the Virgin Islands as
5 proprietary and contain trade secrets, and” after “section 329”, and by adding paragraphs
6 (1) and (2) that read as follows:

7 “(1) For purposes of the information reported and provided to the Division of
8 Banking, Insurance and Financial Regulation under section 325(l)(2), the
9 Commissioner shall maintain the confidentiality of the group capital calculation
10 and group capital ratio produced in the calculation and any group capital
11 information received from an insurance holding company supervised by the Federal
12 Reserve Board or any United States group wide supervisor.

13 (2) For purposes of the information reported and provided to the Division of
14 Banking, Insurance and Financial Regulation pursuant to section 325(l)(3), the
15 Commissioner shall maintain the confidentiality of the liquidity stress test results
16 and supporting disclosures and any liquidity stress test information received from
17 an insurance holding company supervised by the Federal Reserve Board and non-
18 United States group wide supervisors.”

19 (2) In subsection (c) by striking paragraph (1) in its entirety and inserting the
20 following new paragraph (1):

21 “(1) The Commissioner may share documents, materials or other
22 information, including the confidential and privileged documents, materials or
23 information subject to subsection (a), including proprietary and trade secret

1 documents and materials, with other state, federal and international regulatory
2 agencies, with the NAIC, with any third-party consultants designated by the
3 Commissioner, and with local, state, federal, and international law enforcement
4 authorities, including members of any supervisory college described in section 328,
5 if the recipient agrees in writing to maintain the confidentiality and privileged status
6 of the document, material or other information, and has verified in writing the legal
7 authority to maintain confidentiality.”

8 (3) In subsection (c), paragraph (2), by inserting “(1)” after “section 325(*l*)” and
9 by striking paragraphs (3) and (4) in their entirety and inserting the following new
10 paragraphs (3) and (4):

11 “(3) The Commissioner may receive documents, materials or information,
12 including otherwise confidential and privileged documents, materials or
13 information, including propriety and trade-secret information from the NAIC and
14 its affiliates and subsidiaries and from regulatory and law enforcement officials of
15 other foreign or domestic jurisdictions, and shall maintain as confidential or
16 privileged any document, material or information received with notice or the
17 understanding that it is confidential or privileged under the laws of the jurisdiction
18 that is the source of the document, material or information; and

19 (4) The Commissioner shall enter into written agreements with the NAIC,
20 and any third-party consultant designated by the Commissioner governing sharing
21 and use of information provided under this chapter consistent with this subsection
22 that must:

1 (A) specify procedures and protocols regarding the confidentiality
2 and security of information shared with the NAIC or a third-party consultant
3 designated by the Commissioner, including procedures and protocols for
4 sharing by the NAIC with other state, federal or international regulators. The
5 agreement must provide that the recipient agrees in writing to maintain the
6 confidentiality and privileged status of the documents, materials or other
7 information and has verified in writing the legal authority to maintain such
8 confidentiality;

9 (B) specify that ownership of information shared with the NAIC, or
10 a third-party consultant remains with the Commissioner and the NAIC's or a
11 third-party consultant's, as designated by the Commissioner, use of the
12 information is subject to the direction of the Commissioner;

13 (C) excluding documents, material or information reported under
14 section 325(l)(3), prohibit the NAIC or third-party consultant from storing the
15 information shared in a permanent database after the underlying analysis is
16 completed;

17 (D) require prompt notice to be given to an insurer whose confidential
18 information in the possession of the NAIC or a third-party consultant is
19 subject to a request or subpoena to the NAIC or a third-party consultant for
20 disclosure or production;

21 (E) require the NAIC or a third-party consultant to consent to
22 intervention by an insurer in any judicial or administrative action in which the
23 NAIC or a third-party consultant may be required to disclose confidential

1 information about the insurer shared with the NAIC or a third-party
2 consultant; and

3 (F) for documents, material or information reporting under section
4 325(l)(3), in the case of an agreement involving a third-party consultant,
5 provide for notification of the identity of the consultant to the applicable
6 insurers.”

7 (4) In subsection (f) by inserting “or a third-party consultant designated by the
8 Commissioner” after “NAIC”.

9 (5) By adding the following subsection (g):

10 “(g) The group capital calculation and resulting group capital ratio required
11 under section 325(l)(2) and the liquidity stress test along with its results and
12 supporting disclosures required under section 325(l)(3) are regulatory tools for
13 assessing group risks and capital adequacy and group liquidity risks, respectively,
14 and are not intended to rank insurers or insurance holding company systems
15 generally. Therefore, except as otherwise provided under this chapter, the making,
16 publishing, disseminating, circulating or placing before the public, or causing
17 directly or indirectly to be made, published, disseminated, circulated or placed
18 before the public in a newspaper, magazine or other publication, or in the form of a
19 notice, circular, pamphlet, letter or poster, or over any radio or television station or
20 any electronic means of communication available to the public, or in any other way
21 as an advertisement, announcement or statement containing a representation or
22 statement with regard to the group capital calculation, group capital ratio, the
23 liquidity stress test results, or supporting disclosures for the liquidity stress test of

any insurer or any insurer group, or of any component derived in the calculation by any insurer, broker, or other person engaged in any manner in the insurance business is misleading and is therefore prohibited; provided, however, that if any materially false statement with respect to the group capital calculation, resulting group capital ratio, an inappropriate comparison of any amount to an insurer's or insurance group's group capital calculation or resulting group capital ratio, liquidity stress test result, supporting disclosures for the liquidity stress test, or an inappropriate comparison of any amount to an insurer's or insurance group's liquidity stress test result or supporting disclosures is published in any written publication and the insurer is able to demonstrate to the Commissioner with substantial proof the falsity of the statement or the inappropriateness, as the case may be, then the insurer may publish announcements in a written publication if the sole purpose of the announcement is to rebut the materially false statement."

BILL SUMMARY

This bill amends title 22 Virgin Islands Code, chapter 14 to implement revisions to the NAIC's Insurance Holding Company System Regulatory Act Model Law, to ensure the Virgin Islands continued compliance with NAIC accreditation standards and to strengthen insurance laws to protect policyholders in the Virgin Islands.

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